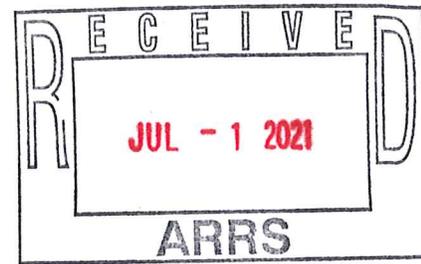




Andy Beshear
Governor

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Executive Director

Larry A. Hadley, R.Ph.

July 1, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 201 KAR 2:061 ✓

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 2:061, the Board of Pharmacy proposes the attached amendment to 201 KAR 2:061.

Sincerely,

Larry A. Hadley, R.Ph.
Executive Director
Kentucky Board of Pharmacy



Final 6-29-2021

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS
Board of Pharmacy

201 KAR 2:061. Procedures followed by the Kentucky Board of Pharmacy in the investigation and hearing of complaints.

RELATES TO: KRS 218A.205, 315.121, 315.131, 315.191~~[(4)]~~, 21 C.F.R. 310.305(b)

STATUTORY AUTHORITY: KRS 218A.205(3)(e), (f), (5), 315.191(1), (2), (3), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations relating to the practice of pharmacy, including a process for complaints and hearings. KRS 315.191(2) ~~authorizes~~*provides* the board ~~[with the authority]~~ to enforce pharmacy laws and *administrative* regulations. KRS 218A.205(3)(e), (f) and (5) require the board to promulgate administrative regulations relating to complaints, licensure standards, and disciplinary actions. The administrative regulation establishes board procedure for investigations, the administrative hearings process, and the penalties for violations.

Section 1. Definitions. (1) "Adverse drug experience" means any adverse event associated with the use of a drug in humans, whether or not considered drug related, including the following:

(a) An adverse event occurring in the course of the use of a drug product in professional practice;

(b) An adverse event occurring from drug overdose, whether accidental or intentional;

(c) An adverse event occurring from drug abuse;

(d) An adverse event occurring from drug withdrawal; and

(e) Any failure of expected pharmacological action.[:]

(2) "Agreed order" means a formal written agreement between the board and the licensee, permit holder, or registrant that stipulates that a violation of pharmacy law may have occurred and specifies the disciplinary terms and conditions imposed on the licensee, permit holder, or registrant.

(3) "Board" is defined by KRS 315.010(4).~~[means the Kentucky Board of Pharmacy;]~~

(4) "Charge" means a specific allegation alleging a violation of a specified provision of ~~KRS~~*this* Chapter 315, the provisions of KRS Chapter 217 and 218A pertaining to prescription drugs, or 201 KAR Chapter 2.[:]

(5) "Complaint" means a formal administrative pleading that sets forth charges against a licensee, permit holder, or registrant and commences a formal disciplinary proceeding *pursuant to KRS Chapter 13B.*[:]

(6) "Diversion agreement" means an interim agreement between the board and the licensee, permit holder, or registrant that is utilized as a method of ensuring patient safety during a time mutually agreed upon. ~~[At the conclusion of the time period, the case review panel may dismiss the grievance, issue a complaint, issue a letter of concern or reprimand, modify the terms of the diversion agreement, or enter into an agreed order with the licensee, permit holder, or registrant.]~~

(7) "Executive director" means the executive director of the Kentucky Board of Pharmacy.[:]

(8) "FDA" is defined by KRS 315.400(10).~~[means United States Food and Drug Administration;]~~

(9) "General counsel" means the general counsel of the Kentucky Board of Pharmacy or any attorney hired or contracted with the Kentucky Board of Pharmacy to provide legal services.[:]

(10) "Grievance" means any allegation ~~[in whatever form]~~ alleging misconduct by a licensee, permit holder, or registrant.~~;~~

(11) "Inordinate amount of compounded human drug products" means when a pharmacy has distributed interstate during any calendar year more than fifty (50) percent of the sum of the number of prescription orders for compounded human drug products that the pharmacy sent out of the facility in which the drug products were compounded during that same calendar year plus the number of prescription orders for compounded human drug products that were dispensed at the facility in which they were compounded during that same calendar year.~~;~~

(12) "Letter of concern" means an advisory letter to notify a licensee, permit holder, or registrant that, although there is insufficient evidence to support disciplinary action, the board believes the licensee, permit holder, or registrant **needs to~~should~~** modify or eliminate certain practices and that the continuation of those practices may result in action against the license, permit, or registration.~~;~~

(13) "Letter of reprimand" means a letter admonishing a licensee, permit holder, or registrant for violating pharmacy law, but notifying the licensee, permit holder, or registrant that in consideration of mitigating evidence, the board has determined that disciplinary action is not appropriate.~~;~~

(14) "Pharmacy Law" means any ~~[provision of]~~ law in KRS Chapter 315 and 201 KAR Chapter 2 or any ~~[provision of]~~ law in KRS Chapter 217 or 218A relating to prescription drugs.

(15) "Product quality issue" means any incident that causes the drug product or its labeling to be mistaken for, or applied to, another article, any contamination, any significant chemical, physical, or other change or deterioration in the distributed drug product, or any failure of one (1) or more distributed batches of the drug product to meet the applicable specifications.

(16) "Serious adverse drug experience" means:

(a) Any adverse drug experience occurring at any dose that results in death, a life-threatening adverse drug experience, inpatient hospitalization or prolongation of existing hospitalization, a persistent or significant disability or incapacity, or a congenital anomaly or birth defect; or

(b)~~;~~ Important medical events that **do~~may~~** not result in death, **are not~~be~~** life-threatening, or **do not** require hospitalization **that are~~may be~~** considered **as** a serious adverse drug experience **if~~when~~**, based upon appropriate medical judgment, **these events~~they~~** may jeopardize the patient or subject and may require medical or surgical intervention to prevent **results of a serious adverse drug experience.~~one (1) of the above-mentioned outcomes;~~**

(17) "Serious product quality issue" means any product quality issue that may have the potential to cause a serious adverse drug experience.

Section 2. Grievances. (1) A grievance~~complaint~~ against a licensee may:

(a) Be submitted orally or in writing; ~~and~~~~and~~

(b) Originate from a consumer, competitor, health professional, government or provider agency, or other interested party.

(2) A grievance ~~complaint shall~~ **may~~can~~** be ~~accepted~~ submitted anonymously, and if the grievance ~~complaint~~ is accompanied by sufficient corroborating evidence ~~as would allow the board to believe, based upon a totality of the circumstances,~~ that ~~there is~~ a reasonable probability ~~of that there has been~~ a violation of pharmacy law, the grievance shall be accepted by the executive director or the general counsel. ~~exists that the complaint is meritorious.~~

(3) A grievance ~~complaint~~ shall not be required to be sworn to or notarized.

(4) A grievance that alleges **an** adverse drug **experience~~exposure~~** or a product quality issue from human drug products compounded in Kentucky and distributed outside the state shall be reviewed, and if the grievance is accepted and involves **an** alleged serious adverse drug **experience~~exposure~~** or serious product quality issue, the grievance shall be reported to the FDA within five (5) business days from receipt of the grievance.

(5) A grievance that alleges *an* adverse drug *experience*~~[exposure]~~ or a product quality issue from a compounded human drug product that was compounded in Kentucky by a physician and distributed outside the state shall be reported to the Kentucky Board of Medical Licensure and the FDA within five (5) business days from receipt of the grievance.

Section 3 [2]. Investigations. (1) Except as *established in*~~[provided by]~~ subsection (2) of this section, upon ~~[receipt]~~ acceptance of a grievance ~~[complaint]~~, the executive director ~~[board]~~ shall instruct its staff or a special investigator to:

(a) Conduct an investigation; ~~[and]~~

(b) ~~[Report the conclusions and recommendations of the investigation to the:~~

~~1. Executive director; and~~

~~2. Board member assigned by the board to review conclusions and recommendations relating to an investigation.]~~ Except as *established in*~~[provided by]~~ paragraph (d) of this subsection, notify the licensee, permit holder, or registrant via written letter sent through the United States Postal Service that a grievance has been filed, and that the board is investigating the merits of the grievance. If during the investigation, it is alleged that another licensee, permit holder, or registrant may have violated pharmacy law, that licensee, permit holder, or registrant shall also be notified via written letter sent through the United States Postal Service that a grievance has been filed and the board is investigating the grievance. Any licensee, permit holder, or registrant under investigation shall be given the opportunity to provide a written statement to the executive director; ~~[and]~~

(c) Report the case to the case review panel within 120 days of the receipt of the grievance. If an extension of time is requested, the case shall be brought before the case review panel to approve or deny the extension of time. If an extension of time is approved, the licensee, permit holder, or registrant that is the subject of the investigation shall be notified via written letter sent through the United States Postal Service of the extension of time. An extension *shall not*~~[cannot]~~ be granted for a period exceeding 120 days. Multiple extensions *shall be*~~[are]~~ permitted; and

(d) The executive director may hold an investigation in abeyance for a reasonable period of time or approve of a delay in notice to the licensee, permit holder, or registrant in order to permit law enforcement or a government agency to perform or complete essential investigative tasks, following a request by law enforcement or a government agency.

(2) If the grievance ~~[complaint]~~ pertains to the improper, inappropriate, or illegal dispensing of controlled substances, the board shall:

(a) File a report with the Attorney General's office, the Office of Inspector General's office, and the Department of the Kentucky State Police within three (3) business days;

(b) Commence an investigation within seven (7) days of the grievance ~~[complaint]~~; and

(c) Produce a charging decision within 120 days of the receipt of the grievance ~~[complaint]~~, unless an extension for a definite time period is requested in writing by a law enforcement agency due to an ongoing criminal investigation.

(3) If the grievance pertains to human drug products compounded in Kentucky and distributed outside of Kentucky, the investigation shall include assessing *if*~~[whether]~~ there is a public health risk associated with the compounded drug product and *if*~~[whether]~~ any public health risk associated with the product is adequately contained.

(4) A special investigator shall only be utilized *if*~~[when]~~ a conflict of interest exists that prevents any board inspector from being assigned to investigate the grievance.

Section 4[3]. Case Review Panel (1) A panel consisting of ~~[the]~~ three (3) assigned board members, ~~[member the executive director, and the pharmacy drug inspector]~~ shall review the findings ~~[conclusions and recommendation]~~ relating to an investigation.

(2) Board staff or a special investigator shall provide the written findings and evidence from each investigation to the case review panel, executive director, and general counsel at least seven (7) days prior to the meeting of the case review panel.

(3) The case review panel ~~may~~**shall be empowered to** request the attendance of any person, including the assigned inspector, at any meeting of the case review panel ~~for~~**in regard to** the investigation of any grievance or consideration of any disciplinary matter.

(4) The executive director and general counsel shall attend case review panel meetings in a non-voting, ex-officio capacity.

(5) The panel shall determine if a preponderance of the evidence exists or does not exist that the licensee, permit holder, or registrant violated pharmacy law. If the panel determines that the preponderance of the evidence indicates that the licensee, permit holder, or registrant did not violate the law, the case review panel shall dismiss the case with or without prejudice or issue a letter of concern.

(6) After reviewing the evidence, if the case review panel determines that a preponderance of the evidence indicates that the licensee, permit holder, or registrant violated pharmacy law, the case review panel shall ~~recommend~~ adopt one (1) of the following dispositions~~options to the board~~:

(a) Non-adverse action against the licensee, permit holder, or registrant. Non-adverse action includes:

1. Issuance of a letter of [a] reprimand ~~restricting the licensee, permit or certificate holder~~; or
2. Entry into a diversion agreement;~~or~~

(b) ~~Attempting~~**Attempt** resolution of the case through an agreed order; ~~or~~

(c) The issuance of a formal complaint, order, and notice of hearing; or

~~(c) Dismissal of the case with or without prejudice; or~~

(d) Returning the case to the inspector or special investigator for further investigation.

(7) ~~[(3)]~~ Documentation of a letter of ~~board~~ reprimand, letter of concern, or diversion agreement shall be maintained in ~~the appropriate~~ board records ~~files~~ for three (3) years.

(8) Within thirty (30) days of the case review panel decision, the licensee, permit holder, or registrant shall be informed via letter sent through the United States Postal Service of the decision of the case review panel.

(9) In the case of recusal by a member of the case review panel, the executive director shall replace the recused board member as a voting member of the case review panel.

(10) If the case review panel determines by a preponderance of the evidence that a grievance involving human drug products compounded in Kentucky and distributed to another state did violate pharmacy law, the board shall take action to ensure that the relevant pharmacy investigates the root cause of the problem that is the subject of the grievance and undertakes sufficient corrective action to address any identified public health risk related to the problem, including the risk that future similar problems may occur. **A sufficient corrective action plan may include tasks such as locating expired components, finding record-keeping errors, and ensuring proper temperature and sterility controls.** [

~~Section 4. (1) With the approval of the board, the executive director shall notify the licensee, permittee, or certificate holder, in writing, that he or she may request an administrative conference before the executive director and the pharmacy drug inspector to be held prior to the hearing.~~

~~(2) The licensee, permit or certificate holder shall be notified that he or she may appear with counsel.~~

~~(3) An administrative conference shall be held to determine whether an agreement may be reached to resolve the complaint that is acceptable to all parties.~~

~~(4) If an agreement is reached, it shall be submitted to the board for approval and board order.~~

Section 5. Settlement. (1) At any time after notice of a grievance or the filing of a complaint, a settlement conference may be requested by the licensee, permit [or certificate]-holder, registrant, or [the] their attorney [for that person] to resolve a grievance or a complaint.

(2) If a settlement conference is requested, it shall be scheduled. The settlement conference shall include the general counsel [board's attorney], the licensee, permit [or certificate] holder, registrant, [and] the attorney for [that] the licensee, permit holder, or registrant [person-], and anyone else at the request of the licensee, permit holder, or registrant.

(3) Except as **established[provided]** in subsection (4) of this section, if the parties to a settlement conference [agree on stipulations, proposed terms, and conditions for an agreed order to resolve the complaint, they shall forward the agreed order to the board for approval] reach an agreement, general counsel, with the consent of the executive director, **may/shall be authorized to** resolve the case with a settlement agreement.

(4) If the case involves harm to any member of the public, diversion of controlled substances, proposed probation, suspension or revocation, the proposed settlement agreement [agreed order is] shall be reviewed [approved] by the case review panel. If the settlement agreement is approved by the case review panel, [board,] the grievance or complaint shall be considered resolved [and a hearing shall not be held].

Section 6. Hearings. All hearings shall be conducted in accordance with the provisions of KRS 315.131(1) and KRS Chapter 13B.

Section 7. Final Order. [Posthearing Proceedings.] (1) The board shall deliberate on issuance of a final order [on all cases] in closed session. Board members that voted on the disposition of the case for the case review panel shall recuse themselves. **If/in the event of** board member recusal and the need for a tie-breaking vote, the executive director shall be available to deliberate and vote on issuance of the final order.

(2) Board counsel shall not attend, or be involved in any manner with, the closed session.

(3) The specific findings of the board shall be made in open session following the board's deliberation.

Section 8. Required Penalties for Violations of KRS Chapter 218A. (1) Pursuant to KRS 218A.205(3)(f)~~(e)~~1., a licensee convicted of a felony offense related to dispensing a controlled substance shall, at a minimum, be permanently banned from dispensing any controlled substance.

(2) Pursuant to KRS 218A.205(3)(f)~~(e)~~2., the board shall impose restrictions short of a permanent ban from dispensing controlled substances on a licensee convicted of a misdemeanor offense relating to the dispensing of a controlled substance.

(3) Pursuant to KRS 218A.205(3)(f)~~(e)~~3., a licensee disciplined by the licensing board of another state relating to the improper, inappropriate, or illegal dispensing of a controlled substance shall, at a minimum, have the same disciplinary action imposed in Kentucky as the disciplinary action imposed by the licensing board of the other state.

(4) Pursuant to KRS 218A.205(3)(g)~~(f)~~, the board shall submit all disciplinary actions to the National Practitioner Data Bank of the United States Department of Health and Human Services either directly or through a reporting agent.

Section 9. Required Reporting of Investigative Findings to the FDA. (1) At the conclusion of an investigation of a grievance involving a serious adverse drug experience or a serious product quality issue relating to a drug product compounded at a pharmacy in Kentucky, but distributed outside the state, the board shall share, as permitted by state law, the findings of the investigation with the FDA.

(2) The board **shall/will** maintain records of grievances involving adverse drug experiences or product quality issues relating to human drug products compounded at a pharmacy, the investigations of the grievances, and any response to or action taken as a result of the grievance beginning when the board receives notice of the grievance. The board shall maintain these records for at least three (3) years. The three (3) year period begins on the date of final action on a grievance, or the date of a decision that the grievance requires no action.

Section 10. Information Sharing with the FDA. (1) On an annual basis, the board shall identify pharmacies that distribute inordinate amounts of compounded human drug products interstate and within thirty (30) days of identifying the pharmacy, notify FDA of **the/such** pharmacy.

(2) For pharmacies that have been identified as distributing inordinate amounts of compounded human drug products interstate during any calendar year, the board **shall/will** identify during the same calendar year:

(a) The total number of prescription orders for sterile compounded human drugs distributed interstate; **[and]**

(b) The names of states in which the pharmacy is licensed; **[and]**

(c) The names of states into which the pharmacy distributed compounded human drug products; and

(d) **If/Whether** the state inspected for and found during its most recent inspection that the pharmacy distributed compounded human drug products without valid prescription orders for individually identified patients.

(3) If the board becomes aware of a physician who is distributing any amount of compounded human drug products interstate, the board shall notify the Kentucky Board of Medical Licensure and within thirty (30) business days of identifying the physician, notify the FDA.

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KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

- 201 KAR 26:115 Definition of psychological testing
- 201 KAR 26:121 Scope of practice and dual licensure
- 201 KAR 26:130 Grievances and administrative complaints
- 201 KAR 26:155 Licensed psychologists; application procedures and temporary license
- 201 KAR 26:171 Requirements for Clinical Supervision
- 201 KAR 26:180 Requirement for granting licensure as a psychologist by reciprocity
- 201 KAR 26:185 Requirements for granting licensure as a psychologist to an applicant license in another state
- 201 KAR 26:190 Requirements for supervised professional experience
- 201 KAR 26:200 Education requirements
- 201 KAR 26:230 Examinations and applications
- 201 KAR 26:250 Employment of a psychological associate, a temporarily licensed psychological associate, or a temporarily licensed psychologist
- 201 KAR 26:280 Licensed psychological associate: application procedures and temporary license
- 201 KAR 26:290 Licensed psychological practitioner; application procedures
- 201 KAR 26:310 Telehealth and telepsychology

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter
July 2, 2021
Page 2

Sincerely,

/s/ Leah Cooper Boggs

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Enclosure Staff Suggested Amendments

Subcommittee Substitute

BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS)

201 KAR 26:115. Definition of psychological testing.

RELATES TO: KRS 319.010

STATUTORY AUTHORITY: KRS 319.032(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(b) requires the Board of Examiners of Psychology to promulgate administrative regulations to establish and define the scope of practice within the field of psychology. This administrative regulation establishes parameters of psychological testing.

Section 1. Definition. "Psychological testing" **means** ~~[means]~~ **[is defined as]** the use of one (1) or more standardized measurement instruments, devices, or procedures including the use of computerized psychological tests, to observe or record human behavior, and which require the application of appropriate normative data for interpretation or classification and includes the use of standardized instruments for the purpose of the diagnosis and treatment of mental and emotional disorders and disabilities, the evaluation or assessment of cognitive and intellectual abilities, personality and emotional states and traits, and neuropsychological functioning.

Section 2. Psychological Tests. Psychological tests may include a version or reformulation of **one (1) of the following**:

(1) Individual tests for the evaluation of cognitive and intellectual abilities, examples of which are:

- (a) The Wechsler ~~[series]~~ intelligence scales;
- (b) The Stanford-Binet intelligence scales; **and**~~[and]~~
- (c) The Kaufman Assessment Battery for Children;

(2) Individual, objective, and projective tests of personality and emotional states and traits, examples of which are:

- (a) The Minnesota Multiphasic Personality Inventory; ~~[and]~~
- (b) The Millon Clinical Multiaxial Inventory;
- (c) The Millon Adolescent Clinical Inventory; **and**~~[and]~~
- (d) Projective techniques including:

- 1. The Rorschach Ink Blots;
- 2. Thematic Apperception Test; **and**~~[and]~~
- 3. The Holtzman Ink Blots; and

(3) Individual tests of neuropsychological functioning, examples of which are:

- (a) The Halstead-Reitan Battery;
- (b) The Luria-Nebraska Battery;
- (c) The ~~[“]Lezak or Kaplan Battery[“]~~; and
- (d) The NEPSY (A Developmental Neuropsychological Assessment).

Section 3. Services that are described as "psychological testing" shall only be administered and interpreted by persons credentialed by this board or who meet the formal academic training and experience qualifications established in KRS Chapter 319 and these **administrative** regulations ~~[described above]~~ and who are otherwise exempt by statute.

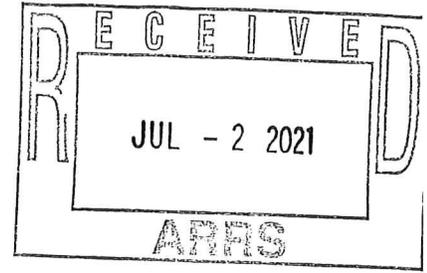
(1) Persons credentialed by this board, as well as other licensed or certified professionals, may also use tests of language, education, and achievement, as well as tests of abilities, interests, and aptitudes. With the exception of the test categories and psychological tests listed in Section 2 of this administrative regulation, the use of these other tests is not exclusively within the scope of this administrative regulation.

(2) ~~[Members of other professions]~~ Persons not credentialed by this board shall not train or supervise any person in performing psychological testing.

(3) The practice of psychology shall be construed within the meaning of the definition contained in KRS 319.010(7) without regard to ~~[if]~~ whether payment is received for services rendered.

(4) Services that are described as "psychological testing~~[and treatment]~~" shall be administered to minor children only upon the notification of and the granting of written permission by the parent or legal guardian, unless otherwise required by the courts subject to specific state or federal law.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
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RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

201 KAR 26:115	Definition of psychological testing
201 KAR 26:121	Scope of practice and dual licensure
201 KAR 26:130	Grievances and administrative complaints
201 KAR 26:155	Licensed psychologists; application procedures and temporary license
201 KAR 26:171	Requirements for Clinical Supervision
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Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter
July 2, 2021
Page 2

Sincerely,

/s/ Leah Cooper Boggs

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Enclosure Staff Suggested Amendments

Subcommittee Substitute

BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS)

201 KAR 26:121. Scope of practice and dual licensure.

RELATES TO: KRS 319.010, 319.015, 319.032(1)(b), 319.050(7)

STATUTORY AUTHORITY: KRS 319.032(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(b) requires the board to promulgate administrative regulations establishing and defining scope of practice within the field of psychology. This administrative regulation establishes the required scope of practice for licensed psychologists who hold the health service provider designation, licensed psychologists, certified psychologists, certified psychologists with autonomous functioning, licensed psychological associates, and licensed psychological practitioners.

Section 1. A license holder shall not practice or present himself or herself outside the area or areas of competency specified in the application for a license and approved by the board based upon examination and review of qualifications, training, and experience, unless the credential holder has obtained additional education, training, experience, or supervision appropriate to the new practice area.

Section 2. Scope of Practice. (1) A licensed psychologist who holds the health service provider designation, a licensed psychologist, a certified psychologist with autonomous functioning, a certified psychologist, a licensed psychologist associate, or a licensed psychological practitioner may:

(a) Work in various health care service delivery settings; and

(b) Provide one (1) or more of the following direct or supportive services:

1. Diagnosis of an emotional, mental, nervous, or addictive disorder, including mental health conditions or an adjustment problem of an individual or group through the use of psychological testing or other techniques;

2. Evaluation or assessment of the functioning of an individual, group, or organization;

3. Treatment of an emotional, mental, nervous, or addictive disorder, including mental health conditions, or an adjustment problem of an individual or group;

4. Intervention or a preventive technique that facilitates the functioning of an individual, group, or organization;

5. Consultation services;

6. Program planning or development services;

7. Evaluation of a psychological or human service program; or

8. Supervision of health service delivery by a licensed psychologist who holds the health service provider designation, as established in 201 KAR 26:171.

~~(2)~~^{9.1} The practice of psychology shall be construed within the meaning of the definition contained in KRS 319.010(7) without regard to whether payment is received for services rendered.

~~(3)~~~~(2)~~ All license holders from this board shall restrict their practice to the delivery of specific services for which they are competent based on professional education, training, and experience.

Section 3. Dual Credentialing. (1) An individual who holds both a license to practice psychology from this board and a mental health credential from another regulatory board authorized by a Kentucky statute shall:

(a) Inform the recipient of a particular service under which license the provider is practicing; and

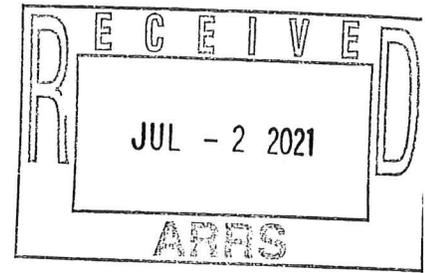
(b) Not participate in the ~~[""]~~practice of psychology~~[""]~~, as defined by KRS 319.010, under the auspices of another credential, recognizing that some activities are exempted by KRS 319.015.

(2) Psychological testing, as defined by 201 KAR 26:115, shall not be delivered under a credential other than a license issued by the Board of Examiners of Psychology.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY



Andy Beshear
Governor

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<http://psy.ky.gov>

July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

201 KAR 26:115	Definition of psychological testing
201 KAR 26:121	Scope of practice and dual licensure
201 KAR 26:130	Grievances and administrative complaints
201 KAR 26:155	Licensed psychologists; application procedures and temporary license
201 KAR 26:171	Requirements for Clinical Supervision
201 KAR 26:180	Requirement for granting licensure as a psychologist by reciprocity
201 KAR 26:185	Requirements for granting licensure as a psychologist to an applicant license in another state
201 KAR 26:190	Requirements for supervised professional experience
201 KAR 26:200	Education requirements
201 KAR 26:230	Examinations and applications
201 KAR 26:250	Employment of a psychological associate, a temporarily licensed psychological associate, or a temporarily licensed psychologist
201 KAR 26:280	Licensed psychological associate: application procedures and temporary license
201 KAR 26:290	Licensed psychological practitioner; application procedures
201 KAR 26:310	Telehealth and telepsychology

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter

July 2, 2021

Page 2

Sincerely,

/s/ Leah Cooper Boggs

Leah Cooper Boggs, General Counsel

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Enclosure Staff Suggested Amendments

Subcommittee Substitute

BOARDS AND COMMISSIONS Board of Examiners of Psychology (As Amended at ARRS)

201 KAR 26:130. Grievances and administrative complaints.

RELATES TO: KRS 319.005, 319.032, 319.082, 319.118, 319.990

STATUTORY AUTHORITY: KRS 319.032(1)(k)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(k) requires the board to promulgate administrative regulations that establish the procedure for investigating complaints or suspected violations of KRS Chapter 319 and notifying proper law enforcement authorities. KRS 319.005 prohibits unlicensed persons from engaging in the practice of psychology or using the title of psychologist, licensed psychologist, certified psychologist, licensed psychological practitioner, or licensed psychological associate. KRS 319.082 delineates the causes for which disciplinary action may be taken against a credential holder. KRS 319.118 authorizes the board to institute and maintain actions to restrain or enjoin violations of applicable statutes, administrative regulations, and orders of the board. KRS 319.990 sets forth the criminal penalty for violations and authorizes prosecution of violators. KRS 319.032 authorizes the board to develop guidelines for use in complaints involving alleged sexual misconduct by a licensed holder, and for training of investigators in these matters. This administrative regulation is established to protect and safeguard the health and safety of the citizens of Kentucky and to provide procedures for filing, evaluating, and disposing of administrative complaints asserted against credential holders or applicants for licenses.

Section 1. Definitions. (1) "Administrative complaint" means a formal administrative pleading authorized by the board that sets forth charges against a credential holder or applicant and commences a formal disciplinary proceeding in accordance with KRS Chapter 13B.

(2) "Board" is defined in KRS 319.010(2), and for purposes of this administrative regulation, shall also **mean [refer to]** a hearing panel.

(3) "Charge" means a specific allegation contained in any document issued by the board or hearing panel alleging a violation of a specified provision of the KRS Chapter 319 or 201 KAR Chapter 26.

(4) "Grievance" means any allegation alleging misconduct by a licensed holder or applicant or alleging that an unlicensed person is engaging in the practice of psychology or using the title of psychologist.

(5) "Order" means the whole or any part of a final disposition of a hearing.

(6) "Person" means any individual, partnership, corporation, association, or public or private organization of any character other than an agency.

(7) "Respondent" means the person against whom a grievance or administrative complaint has been made.

Section 2. Grievance. (1) Source. A grievance may be initiated by:

- (a) The board;
- (b) The public; or
- (c) Any governmental agency.

(2) Form.

(a) A grievance shall:

1. Be in writing through use of hard copy or digital forms provided by the board;
2. Clearly identify the ~~[person]~~ licensee against whom the grievance is being made;
3. Contain the date the grievance is initiated;
4. Clearly identify the complainant through printed name, contact information, and signature~~[Identify by printed name and signature the person making the grievance];~~ **[and]**
5. Contain a clear and concise statement of the facts giving rise to the grievance, including the relationship of the complainant to the licensee;~~;~~
6. Indicate if the grievance arises out of a court-involved evaluation, consultation, treatment, or psychoeducation of a person ~~[(s)];~~
7. Provide consent, or a means of acquiring consent, **from the legal guardian** for investigations involving minors or adults under guardianship ~~[from their legal guardian(s)]; and~~
8. Provide a waiver of confidentiality for the complainant and the complainant's minor children or wards, if applicable.

(b) A certified copy of a court record for a misdemeanor or felony conviction relating to the practice of psychology shall be considered a valid grievance.

(c) The board shall not accept or process anonymous grievances or administrative complaints.

(3) A grievance shall be filed with the board at its designated office or place of business, or by e-mail. [Receipt. A grievance may be received by any:

- (a) Board member;
- (b) Credential holder designated by the board; or
- (c) Staff member.]

(4) Response. **The board shall provide** a copy of the grievance **[shall be provided]** to the respondent **[by the board]** in a timely manner along with additional information and documents supplied by the complainant throughout the administrative process.

(5) The respondent shall have ~~[fifteen (15)]~~ twenty (20) days to file **with the board** a written response to the grievance **[with the board]**.

~~(6)[(5)] Initial review [At the next regularly-scheduled meeting of the board or as soon thereafter as practicable, the board or a panel of the board shall review the grievance and response. At that time, the board shall determine if an investigation is warranted, and if so, the board may appoint one (1) of its members or any agent or representative of the board to conduct an investigation of the grievance.]~~ of the grievance by the complaint screening committee:

(a) All grievances **shall [will]** be assigned an identification number and be referred to as such to ensure anonymity.

(b) At the next subsequent regularly-scheduled meeting of the board's designated complaint screening committee, or as soon thereafter as practicable, the complaint screening board or a panel committee of the board shall review the grievance and response as well as determine if the matter is within the board's jurisdiction. At that time, and if [should] all necessary information for decision making is [be] available, the complaint screening committee may recommend:

1. Dismissal of the grievance if the complaint screening committee determines there is no evidence of a violation of law or ethics as provided by the **statutes [statues]** or **administrative** regulations pertaining to the practice of psychology; if it is determined that the facts alleged in the grievance or investigative report do not constitute a prima facie violation, the complaint screening committee shall notify the complainant and the respondent that no further action shall be taken at the present time.

2. Investigation;

3 Tabling the decision to allow for acquisition of additionally requested information, which may include a fitness for duty evaluation; **[or]**

4. Referral of the grievance to the full board for further review and action; or

5. Issuing a voluntary assurance of compliance to unlicensed individuals whom engage in the practice of psychology.

(7)[(6)] Investigation. The board shall **provide [make available]** investigators to explore the ethical and professional conduct of respondents related to the filing of grievances.[

(a) The respondent shall be contacted. With the consent of the respondent, a meeting may be scheduled at which time he or she may respond further to the allegations of the grievance. The board and the respondent shall have the right to be represented at the meeting by legal counsel.

(b) Report of investigation. Upon the completion of the investigation, the person or persons making that investigation shall submit a written report to the board containing a succinct statement of the facts disclosed by the investigation.

(c) Consideration of grievance, and investigative report.

1. The board shall determine if there has been a prima facie violation of KRS 319.082 based on consideration of the:

a. Grievance;

b. Investigative report, if an investigation was warranted under subsection (5) of this section; and

c. Psychological or physical examination, if one was ordered under Section 6 of this administrative regulation.

2. If the investigator is a member of the board, the investigating member shall not vote on disposition of the grievance.

3. If it is determined that the facts alleged in the grievance or investigative report do not constitute a prima facie violation, the board shall notify the person making the grievance and the respondent that no further action shall be taken at the present time.

4. If it is determined that there is a prima facie violation, the board shall:

a. Issue an administrative complaint against the credential holder or applicant;

b. File suit to enjoin the violator; or

c. Seek criminal prosecution pursuant to KRS 319.990.]

(a) The investigator shall review the factors and variables within the grievance that are pertinent to the practice of psychology and consider the circumstances **for which** the board's review is required.

(b) The respondent shall be contacted by the investigator or board administrator to begin the investigation. With the consent of the respondent, a meeting may be scheduled at which time **[he or she]** the respondent may further respond **[reply to further]** to the allegations of the grievance.

The board and the respondent shall have the right to be represented at the meeting by legal counsel.

(b) 1. If the grievance pertains to a minor~~[(s)]~~ or any person under legal guardianship as a consumer, collateral, or participant of the investigation, the investigator **shall [will]** acquire consent from all-involved legal guardians of the minor~~[(s)]~~ or ward~~[(s)]~~ prior to proceeding with the investigation, unless otherwise ordered by a court of law.

2. If the grievance arises out of a court-involved evaluation, treatment, or psychoeducation of a person whereby the respondent's engagement was affiliated with a legal action, the investigator shall secure information from all involved parties, as well as judicial officers and other involved professionals, concerning the role of the respondent and the purpose and scope of the respondent's court-affiliation. The investigator **shall [will]** also secure information from opposing parties and other stakeholders in the legal process when assessing the role of the respondent in legal proceedings and how the role is related to the grievance.

3. Investigators **shall [will]** consider information from multiple data-gathering methods ~~[in order]~~ to increase accuracy and objectivity.

4. Investigators shall strive to use a balanced and fair process of investigation through collection of valid collateral source information that demonstrates sufficiency and reliability.

5. In the investigation of the grievance, the investigator shall review all data provided from both the complainant and the respondent as well as answer to all requested information from the board.

6. Investigators **shall [will]** perform reasonable inquiry when confronted with information about a possible violation of law or ethics; however, the scope of the investigation shall be delineated by grievance.

7. Investigators **shall [will]** be free from multiple relationships and conflicts of interest prior to acceptance and through completion of the investigation.

8. If the investigator is a member of the board, the investigating member shall not vote on disposition of the grievance.

9. Investigators **shall [will]** complete the investigation in less than sixty (60) days from the respondent's final interview. ~~If an extension is [When extensions are]~~ needed, the investigator **shall [will]** inform the complaints screening committee of the reason for the extension as well as an estimated date of completion in fourteen (14) day intervals.

(8) Report of investigation. Upon the completion of the investigation, the person or persons making the investigation shall submit a written report to the board complaints screening committee containing a succinct statement of the facts disclosed **or** discovered by ~~[in]~~ the investigation. The investigator **shall [will]** also acknowledge incomplete, unreliable, or missing data.

(9) After consideration of the grievance and investigative report by the complaint screening committee, the committee may consider the options in paragraph (6)b of this section.

~~[1(a)]~~ If referred to the board, the board shall determine, **with the weight it sees fit**, if there has been a prima facie violation of KRS 319.082 based on consideration of the ~~[following, with the weight it sees fit]:~~

~~(a)[1.]~~ Grievance;

~~(b)[2.]~~ Response;

~~(c)[3.]~~ Investigative report, if an investigation was warranted; and

(d)[4.] Fitness for duty examination, if an examination was warranted

(10) If it is determined that the facts alleged in the grievance or investigative report do not constitute a prima facie violation, the board shall notify the person making the grievance and the respondent that no further action shall be taken at the present time.

(11) If it is determined that there is a prima facie violation, the board shall:

(a)[a.] Issue an administrative complaint against the credential holder or applicant;

(b)[b.] File suit to enjoin the violator; or

(c)[c.] Seek criminal prosecution pursuant to KRS 319.990.

Section 3. Administrative Complaint. If the board determines that the grievance shall be made an administrative complaint, the administrative complaint shall be adjudicated pursuant to KRS Chapter 13B.

Section 4. Administrative Response. Within twenty (20) days of service of the formal administrative complaint, the respondent shall file with the board a written response to the specific allegations set forth in the administrative complaint. Allegations not properly responded to shall be deemed admitted, and may form the basis for a default adjudication against the [person] respondent subject to the administrative complaint if the requisite elements of a violation are admitted. The board may, for good cause, permit the late filing of a response.

Section 5. Allegations of Sexual Misconduct by a License Holder. (1) To assure confidentiality for the complainant, the alleged victim's name shall not be used in any written document. This individual shall be identified by initials only or by some other mechanism for identification adopted by the board.

(2) Upon request, the testimony of the alleged victim may be taken by deposition in order to assure his or her confidentiality.

(3) To protect the confidentiality of all parties, the board may issue an order restraining all parties and their representatives, including counsel, from any discussion or release of information about the allegations outside of the investigative and hearing processes.

(4) In accordance with the provisions of KRS 319.032(1)(d), the board may hold some or all of the hearing procedures in closed session.

Section 6. Fitness for Duty Examination. (1) If there is reasonable cause to believe that a credential holder or applicant for a license is physically or mentally incapable of practicing psychology with reasonable skill and safety to clients, the board may order the credential holder or applicant to submit to an examination by a psychologist or other health care provider designated by the board to determine the credential holder's or applicant's fitness and competence to practice psychology.

(2) The expense of this examination shall be borne by the board.

(3) The board shall then consider the findings and conclusion of the examination.

(4) ***The board shall provide*** a copy of the examination ***[shall be provided by the board]*** to the respondent. The respondent may file with the board a written response to the examination within fifteen (15) days of the date on which the findings and conclusion of the examination was provided to the respondent.

(5)(a) Based on consideration of the psychological or physical examination, the board shall determine if there has been a prima facie violation of KRS 319.082.

(b) If it is determined that the findings and conclusion of the examination do not constitute a prima facie violation of KRS 319.082, the board shall ~~[so]~~ notify the **respondent and complainant, if any [person]**.

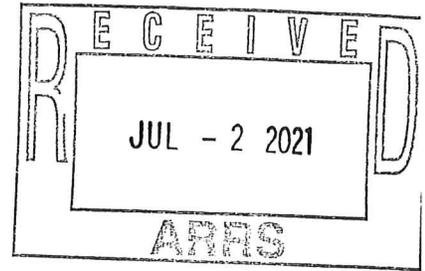
(c) If it is determined that there is a prima facie violation of KRS 319.082, the board shall issue an administrative complaint against the credential holder or applicant.

Section 7. Board Member Training for Cases of Sexual Misconduct. (1) Within six (6) months of their appointment, all board members and investigators shall undergo specialized training to cover the content specified by KRS 319.032(1)(e).

(2) An investigator shall not be assigned to cases where sexual misconduct has been alleged until the required training has been completed.

(3) Training shall consist of a three (3) hour course **that [which]** includes the content specified by KRS 319.032(1)(e) and may be delivered by means of either live presentation, individual tutorial, or electronic media.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



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RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

- 201 KAR 26:115 Definition of psychological testing
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Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter

July 2, 2021

Page 2

Sincerely,

/s/ Leah Cooper Boggs

Leah Cooper Boggs, General Counsel

Department of Professional Licensig

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Enclosure Staff Suggested Amendments

Subcommittee Substitute

BOARDS AND COMMISSIONS Board of Examiners of Psychology (As Amended at ARRS)

201 KAR 26:155. Licensed psychologist: application procedures and temporary license.

RELATES TO: KRS 319.050

STATUTORY AUTHORITY: 319.032(1) (a), (c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(a) and (c) require the board to promulgate administrative regulations establishing the requirements for an applicant for licensure as a psychologist. This administrative regulation establishes the requirements for applicants for licensure, and the conditions for a temporary license.

Section 1. Application. (1) **After the requirements established in KRS 319.050(2) are met,** an application for a credential as a licensed psychologist **or** ~~[and for temporary licensure]~~ **[and as]** a temporarily licensed psychologist may be submitted **[after the requirements established in KRS 319.050(2) are met]** to the board, ~~[or]~~ to an online application management system contracted by the board for the purposes of application screening, **or** as the board directs.

(2) The application made to the board or to the online application management system ~~[shall be made by submitting a completed Application for Licensure as a Psychologist to the board. The application shall:]~~ shall include:

(a) ~~[Include]~~ A certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of ~~[his or her]~~ their knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification.~~;~~ ~~[and]~~

(b) ~~[Be accompanied by:]~~ Payment of the application fee, **which shall be:**

1. Made payable to the Kentucky State Treasurer if the application is processed through the board;~~;~~ or

2. [payment shall be] Made to the online application management system as directed by the board.

~~1. A check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 26:160;~~

~~(c)[2:]~~ Three (3) recommendations from persons qualified to evaluate the applicant's professional ability within five (5) years from the date of application, including two (2) persons who have received a doctorate in psychology (Ph.D., PsyD., Ed.D.). The recommendations shall be submitted on the Recommendation Form for Licensure as a Psychologist; and

~~(d)[3:]~~ An official transcript for all levels of education required for licensure. **Transcripts shall [must] be received in sealed envelopes or electronically directly from the school or a third-party clearinghouse.**

Section 2. Temporary Licensure. (1) Pending successful completion of required examinations, an applicant may request permission to practice psychology at the doctoral level on a temporary

basis pursuant to KRS 319.050(3). The request for a temporary credential shall be cosigned by the candidate and the proposed supervisor, who shall be a licensed psychologist with health service provider certification approved by the board.

(2) Supervision during the period of temporary licensure shall be a minimum of one (1) hour of individual, face-to-face supervision on a weekly basis.

(3) A report of supervision shall be submitted on a regular basis as required by 201 KAR 26:171, Section 6.

(4) The candidate shall take the national EPPP within one (1) year of the board's written approval of temporary licensure.

(5)(a) A temporary license shall be valid for one (1) year from the date of the notice of approval by the board.

(b) During the period of temporary licensure, a candidate shall:

1. Successfully complete all credentials and examination procedures;

2. Pass the EPPP; and

3. Pass the examinations on psychological practice, ethical principles, and ~~the~~ Kentucky law within one (1) year of the date of the notice of approval by the board for a temporary license.

(c)1. A candidate shall score at least an eighty (80) percent to pass the [structured] jurisprudence examination of Kentucky mental health law.

2. A candidate shall score a 100 percent to pass the oral examination on ethical principles and professional practice.

(6)(a) Under exceptional circumstances and upon written request cosigned by the board approved supervisor, the board may approve an extension of the period of temporary licensure.

(b) If a temporary licensee requires an extension after one (1) year, the licensee may request a six (6) month extension.

(c) After the six (6) months, a second extension may be requested for an additional six (6) months.

(d) After a total of two (2) years ~~of [for]~~ temporary licensure, the licensee may request a second temporary license following the ~~[aforementioned]~~ steps **in this section.**

(e) If after two (2) years on the second temporary license another extension is requested, the licensee may request a third temporary license following the ~~[aforementioned]~~ steps **in this section.**

(f) Licensees shall not exceed a total of six (6) years of extensions for all temporary licenses nor hold a temporary license for longer than six (6) years.

(g) All extensions are provided by the board at the board's discretion.

~~(h)[(b)]~~ A licensee shall submit a completed Request for Extension of Temporary Licensure as a Psychologist to request an extension.

Section 3. (1) An individual who submits an Application for Licensure as a Psychologist and has been approved by another state to take the EPPP shall submit:

(a) The official notice of the results of the EPPP from the state psychology regulatory board that approved the ~~[(a) The official notice of the results of the EPPP from the state board that approved the]~~ applicant to take the EPPP; or

(b) A request to ASPPB to release the results of the EPPP to the board and notify the board of the submission of the request.

(2) The applicant shall submit the official notice or notification of the request to ASPPB to the board within thirty (30) days of taking the examination.

Section 4. Grace Period for Submission of Credentials. **[In-order]** To allow for processing of the candidate's materials by the board, there shall be a grace period not to exceed sixty (60) days within which candidates who have completed their degree requirements may begin to practice psychology under supervision of a board-approved supervisor, as established in 201 KAR 26:190.

(1) Upon acceptance of employment or the beginning of the required period of supervision, the candidate and the licensed psychologist who shall serve as his or her supervisor shall immediately submit a letter of notice to the board indicating that he or she has begun to practice in Kentucky and that application materials are forthcoming. Failure to submit this notice shall be deemed as grounds for disciplinary action against the candidate and the supervisor.

(2) The candidate shall ensure that all materials are forwarded to the board within thirty (30) days from the date of employment or supervision. Once the application is complete, the board shall review the material at its next scheduled meeting and, if appropriate, issue either a temporary or permanent credential. If the candidate does not meet the requirements for the credential, or if the application material is insufficient to take any action, he or she shall be notified by the board and directed to cease practice until the requirements are met or the necessary documentation has been submitted.

(3) **[Under no circumstances shall]** The grace period **shall not** be extended beyond sixty (60) days. Candidates who fail to achieve approval within this timeframe shall not practice psychology until credentialed by the board.

(4) Upon filing the notice set forth in Section 3(1) of this administrative regulation, the candidate is deemed to be practicing psychology under the jurisdiction of the board, and shall comply with KRS Chapter 319 and 201 KAR Chapter 26.

Section 5. Incomplete Application. An incomplete application shall ~~[be denied two (2) years from the date of filing]~~ be determined to be expired one (1) year from the date of filing, and may be destroyed.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

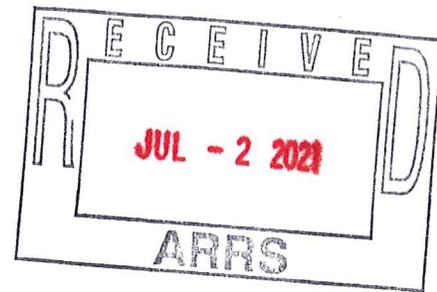
(a) "Application for Licensure as a Psychologist", ~~[February 2017]~~ March 2021;

(b) "Recommendation Form for Licensure as a Psychologist", ~~[February 2017]~~ March 2021; and

(c) "Request for Extension of Temporary Licensure as a Psychologist", ~~[February 2017]~~ March 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Examiners of Psychology, 500 Mero Street ~~[911 Leawood Drive]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material is also available on the Board's Web site.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



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license in another state
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201 KAR 26:290 Licensed psychological practitioner; application procedures

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached agency amendments to the above-listed regulations.

Sincerely,

/s/ Leah Cooper Boggs
Leah Cooper Boggs, General Counsel
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Agency Amendment

**BOARDS AND COMMISSIONS
Board of Examiners of Psychology**

201 KAR 26:155. Licensed psychologists: application procedures and temporary license.

Page 3

Section 2(5)(b)3.

Line 15

After "Pass the", insert "Kentucky".

After "examinations", insert the following:

as outlined in 201 KAR 26:230 Section 1(2)

Delete the following:

on psychological practice, ethical principles, and the Kentucky law

Pages 3 and 4

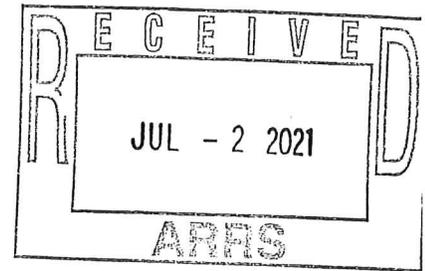
Section 2(5)(c)1., 2.

Lines 17, 18, 1, and 2

Delete the following:

(c)1. A candidate shall score at least eighty (80) percent to pass the structured jurisprudence examination of Kentucky mental health law.

2. A candidate shall score a 100 percent to pass the oral examination on ethical principles and professional practice.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

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201 KAR 26:185	Requirements for granting licensure as a psychologist to an applicant license in another state
201 KAR 26:190	Requirements for supervised professional experience
201 KAR 26:200	Education requirements
201 KAR 26:230	Examinations and applications
201 KAR 26:250	Employment of a psychological associate, a temporarily licensed psychological associate, or a temporarily licensed psychologist
201 KAR 26:280	Licensed psychological associate: application procedures and temporary license
201 KAR 26:290	Licensed psychological practitioner; application procedures
201 KAR 26:310	Telehealth and telepsychology

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter
July 2, 2021
Page 2

Sincerely,

/s/ Leah Cooper Boggs

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Enclosure Staff Suggested Amendments

Subcommittee Substitute

BOARDS AND COMMISSIONS Board of Examiners of Psychology (As Amended at ARRS)

201 KAR 26:171. Requirements for clinical supervision.

RELATES TO: KRS 319.032(1)(l), 319.050(3), (6), 319.056(4), (5), 319.064(3), (5), 319.082(1), 319.092(3)(d), 319.118(1)

STATUTORY AUTHORITY: KRS 319.032(1)(l)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(l) requires the board to promulgate an administrative regulation governing the clinical supervision of a certified psychologist, licensed psychological associate, candidate for licensure, or a credential holder sanctioned by the board. This administrative regulation establishes the requirements for clinical supervision.

Section 1. Board Approval Required. (1) Except for graduate students as provided in Section 14 of this administrative regulation, a supervisory arrangement shall have the prior approval of the board, with both clinical supervisor and supervisee petitioning the board in writing.

(2) If there is a change in clinical supervisor or in the supervisory arrangement, the clinical supervisor and supervisee shall:

(a) Proceed with the change as soon as practicable so as to avoid a lapse of clinical supervision for the supervisee; and

(b) Notify the board within thirty (30) days of the change for approval of the change of clinical supervisor or supervisory arrangement.

(3) It shall be the joint responsibility of the clinical supervisor and supervisee to assure that all reports, plans and goals, or other records of a supervisory relationship required by KRS Chapter 319, or these administrative regulations, are complete and filed with the board in a timely manner.

Section 2. Clinical Supervision Requirements. (1) All clinical supervision requirements shall:

(a) Be met with individual, face-to-face, weekly contact between clinical supervisor and supervisee except as provided in subsection (2) of this section and Sections 11 and 14 of this administrative regulation; and

(b) Include additional clinical supervision sessions as needed.

(2) An alternative format of clinical supervision, including two (2) way interactive video, may be substituted for the supervisory contact, required by subsection (1) of this section, upon specific approval by the board.

Section 3. Relief from Clinical Supervision Requirements During Inactive Period. (1) A certified psychologist or licensed psychological associate may petition the board to be relieved of his or her obligation to maintain clinical supervision during which period he or she shall not practice psychology.

(2) The certified psychologist or licensed psychological associate shall obtain a clinical supervisor approved by the board before the resumption of practice.

(3) Upon resumption of practice, the certified psychologist or licensed psychological associate shall:

(a) Document compliance with continuing education requirements; and

(b) Report on his or her activities and employment related to psychology during the period without clinical supervision.

Section 4. Training and Continuing Education for Clinical Supervisors. (1) A licensed psychologist with health service provider designation who has been approved by the board as a clinical supervisor shall attend a board approved training session in clinical supervisory practices within twelve (12) months of obtaining approval as a supervisor.

(2) A board approved clinical supervisor shall obtain a minimum of three (3) continuing education hours in clinical supervision theory or techniques in each three (3) year renewal cycle as required by 201 KAR 26:175, Section 2(4)(a). The board shall suspend its approval of a clinical supervisor if the clinical supervisor does not complete the required continuing education.

Section 5. Clinical Supervisor Obligations. (1) The clinical supervisor shall make all reasonable efforts to be assured that each supervisee's practice is in compliance with this administrative regulation.

(2) The clinical supervisor shall report to the board an apparent violation of KRS 319.082(1) on the part of the supervisee.

(3) The clinical supervisor shall inform the board immediately of a change in the ability to clinically supervise, or in the ability of a supervisee to function in the practice of psychology in a competent manner.

(4) The clinical supervisor shall control, direct, or limit the supervisee's practice as appropriate to ensure that the supervisee's practice of psychology is competent.

(5) The clinical supervisor of record shall be responsible for the practice of psychology by the supervisee. If the board initiates an investigation concerning a supervisee, the investigation shall include the clinical supervisor of record.

(6) For each person supervised pursuant to KRS 319.050(3), (6), 319.056(4), (5), 319.064(3), (5), or 319.092(3)(d), the clinical supervisor shall maintain a record of each supervisory session that shall include the type, place, and general content of the session. This record shall be maintained for a period of not less than six (6) years after the last date of clinical supervision.

Section 6. Clinical Supervisory Report. (1) In calculating the amount of time spent in full-time practice while under clinical supervision, 1,800 hours of supervised practice shall be equivalent to one (1) year of experience.

(2) The clinical supervisor shall submit a Supervisory Report to the board of the clinical supervision of each supervisee according to the following schedule:

CREDENTIAL STATUS	REPORTING PERIOD	REPORT DUE DATE(S)
(a) Licensed psychological associate or certified psychologist with 4 or more	Every 2 years (with prior board approval)	Anniversary date of supervisee's licensure

years of full-time practice, or its equivalent		
(b) Licensed psychological associate or certified psychologist with fewer than 4 years of full-time practice, or its equivalent	Yearly	Anniversary date of supervisee's licensure
(c) Temporarily licensed psychologist	Every 6 months and 1 month prior to [structured] jurisprudence exam	
(d) Temporarily licensed psychological associate	Every 6 months	
(e) Sanctioned credential holder	Quarterly	January, April, July, and October 15th

(3) The report shall include:

(a) A description of the frequency, format, and duration of clinical supervision;

(b) An assessment of the functioning of the supervisee, including the strengths and weaknesses of the supervisee; and

(c) Other information which may be relevant to an adequate assessment of the practice of the supervisee.

Section 7. Multiple Clinical Supervisors. (1) If a supervisee has more than one (1) board-approved clinical supervisor, the clinical supervisors shall be in direct contact with ***each other [one another]*** at least once every six (6) months, and they shall provide Supervisory Plans and Goals to the board and copies to ***each other [one another]***.

(2) A request to have more than two (2) clinical supervisors at one (1) time shall require a special application to the board ***that [which]*** shall include detailed information as to how the clinical supervisors shall communicate and coordinate with each other in providing the required clinical supervision.

Section 8. Clinical Supervisor Responsibilities. The clinical supervisor of record shall:

(1) Review and countersign psychological assessments as appropriate based on the supervisee's level of experience;

(2) Review treatment plans, progress notes, and correspondence as needed to assess the competency of the supervisee to render psychological services;

(3) Jointly establish with the supervisee Supervisory Plans and Goals that shall be submitted to the board at the beginning of the supervisory relationship. The Supervisory Plans and Goals shall:

(a) Be updated or revised and submitted to the board with the regular report of clinical supervision;

(b) Include intended format and goals to be accomplished through the supervisory process; and

(c) Include methods that the clinical supervisor and supervisee shall employ to evaluate the supervisory process.***./;]***

(4) Have direct observation of the supervisee's work:

(a) For a licensed psychological associate or a certified psychologist with less than four (4) years of full-time, post-licensure practice, or its equivalent, or a licensure candidate with temporary permission to practice, direct observation shall take place at least once every two (2) months;

(b) For a licensed psychological associate or certified psychologist with more than four (4) years of full-time, post-licensure practice, or its equivalent, direct observation shall take place as needed;

(c) Direct observation may be accomplished through audiotaping, video camera, videotaping, one (1) way mirror, or as a co-therapist. [5]

(5) Have direct knowledge of the size and complexity of the supervisee's caseload;

(6) Limit and control the caseload as appropriate to the supervisee's level of competence;

(7) Have knowledge of the therapeutic modalities and techniques being used by the supervisee; and

(8) Have knowledge of the supervisee's physical and emotional well-being when it has a direct bearing on the supervisee's competence to practice.

Section 9. Supervisee Responsibilities. (1) The supervisee shall:

(a) Keep the clinical supervisor adequately informed at all times of his or her activities and ability to function; and

(b) Seek clinical supervision as needed in addition to a regularly scheduled supervisory session.

(2) The supervisee shall:

(a) Participate with the clinical supervisor in establishing Supervisory Plans and Goals and in completing the regular Supervisory Reports;

(b) Be jointly responsible with the clinical supervisor for ensuring that a Supervisory Report has been sent to the board in accordance with the reporting schedule established in Section 6(2) of this administrative regulation; and

(c) Report to the board an apparent violation of KRS 319.082(1) on the part of the clinical supervisor.

Section 10. Identification of Provider. The actual deliverer of a service shall be identified to the client. A billing for a rendered service shall identify which service was performed by the certified psychologist, licensed psychological associate, temporary licensed psychologist, trainee, or other provider and supervised by the licensed psychologist.

Section 11. Frequency of Clinical Supervision. (1) A licensed psychological associate or certified psychologist shall have a minimum of one (1) hour of individual face-to-face clinical supervision on a weekly basis for the first two (2) years of full-time practice or its equivalent following licensure.

(2) After two (2) years of full-time, post-licensure practice, or its equivalent, the clinical supervisor and supervisee may petition the board using a Request for Change of Supervisor and/or Frequency **form** to alter the format, frequency, or duration of supervision if the proposed change includes a minimum of two (2) one (1) hour individual face-to-face meetings every four (4) weeks, and the total amount of clinical supervision is not less than four (4) hours per four (4) week period. This petition may include a request to change the format from individual to group clinical supervision. Clinical Supervision requirements for part-time practice may be modified at the discretion of the board upon approval of the submitted plan.

(3)(a) After four (4) years of full-time, post-licensure practice, or its equivalent, the clinical supervisor and supervisee may petition the board for further modification of the format, frequency, or duration of supervision using a Request for Change of Supervisor and/or Frequency **form**, if the proposed change includes a minimum amount of one (1) hour of face-to-face clinical supervision per month. Additional modifications of the format, frequency, or duration of clinical supervision may be submitted for approval by the board.

(b) Upon a change of clinical supervisor, a new Supervisory Plans and Goals shall be submitted by the clinical supervisor and supervisee to the board for approval. This plan may require additional clinical supervision than was previously approved by the board.

(c) Upon termination of the supervisor-supervisee relationship, the final Supervisory Report shall be submitted to the board within thirty (30) days of the termination.

(4) Any change in the frequency or duration of clinical supervision under this section may not occur automatically, but only upon a written request to the board and approval of the request by the board.

Section 12. Clinical Supervision of a Disciplined Credential Holder. (1) The board shall appoint an approved clinical supervisor to supervise a disciplined credential holder for the period of time defined by the board.

(2) The disciplined credential holder shall be responsible for paying the fee for clinical supervision.

(3) The clinical supervisor shall have completed the board approved training course in supervision.

(4) The clinical supervisor shall:

(a) Review the originating complaint, agreed order, or findings of the disciplinary hearing;

(b) Meet with the disciplined credential holder and the board liaison to:

1. Summarize the actions and concerns of the board;

2. Review the goals and expected outcomes of clinical supervision submitted by the board liaison;

3. Develop a specific plan of clinical supervision; and

4. Review the reporting requirements that shall be met during the period of clinical supervision. [7]

(c) Meet with the disciplined credential holder at least weekly, on an individual face-to-face basis for a minimum of one (1) hour unless modified by the board;

(d) Submit a quarterly report to the board which reflects progress, problems, and other information relevant to the need for board-mandated supervision;

(e) Make all reasonable efforts to ensure that the disciplined credential holder's practice is in compliance with KRS Chapter 319 and 201 KAR Chapter 26;

(f) Report to the board any apparent violation of KRS 319.082(1) on the part of the disciplined credential holder;

(g) Immediately report to the board in writing a change in the ability to clinically supervise, or in the ability of the disciplined credential holder to function in the practice of psychology in a competent manner;

(h) Review and countersign psychological assessments as needed or appropriate;

(i) Review treatment plans, notes, and correspondence as needed or appropriate;

- (j) Have direct observation of the disciplined credential holder's work on an as-needed basis;
 - (k) Have direct knowledge of the size and complexity of the disciplined credential holder's caseload;
 - (l) Have knowledge of the therapeutic modalities and techniques being used by the disciplined credential holder; and
 - (m) Have knowledge of the disciplined credential holder's physical and emotional well-being when it has direct bearing on the disciplined credential holder's competence to practice.
- (5) The clinical supervisor shall control, direct, or limit the disciplined credential holder's practice as appropriate to ensure that the disciplined credential holder's practice is competent.
- (6) The clinical supervisor shall contact the board liaison with any concern or problem with the disciplined credential holder, his or her practice, or the supervision process.
- (7) A final meeting shall be scheduled within thirty (30) days of the end of the established supervision period to summarize the clinical supervision. The meeting shall include the clinical supervisor, disciplined credential holder, and board liaison. A written summary of the supervision shall be submitted by the clinical supervisor to the board two (2) weeks following this meeting with a copy to the board liaison.

Section 13. Board Liaison for Disciplined Credential Holder. The board shall appoint a board member to serve as a liaison between the board and the approved clinical supervisor. The board liaison shall:

- (1) Recruit the clinically supervising psychologist from a list provided by the board;
- (2) Provide the clinically supervising psychologist with the originating complaint, agreed order, or findings of the hearing and supply other material relating to the disciplinary action as deemed appropriate by the liaison;
- (3) Ensure that the clinically supervising psychologist is provided with the necessary documentation for liability purposes to clarify that he or she is acting as an agent of the board pursuant to KRS 319.118(1) and has immunity commensurate with that of a board member;
- (4) Provide the clinically supervising psychologist with a written description of the responsibilities of the clinical supervisor and a copy of the responsibilities of the liaison;
- (5) Ensure that the board has sent a written notification letter to the disciplined credential holder. The notification letter shall:
 - (a) State the name of the supervising clinical psychologist; and
 - (b) Specify that the disciplined credential holder shall meet with the clinical supervising psychologist and the liaison within thirty (30) days of the date of the notification letter. ~~§~~
- (6) Meet with the clinically supervising psychologist and disciplined credential holder within thirty (30) days of the date of the notification letter to summarize the actions of the board, review the applicable statutes and administrative regulations regarding clinical supervision requirements for a disciplined credential holder, and assist with the development of a plan of supervision. The plan of supervision shall be written at the first meeting;
- (7) Submit the report of supervision to the board for approval. The liaison shall place the report of supervision on the agenda for review and approval at the next regularly scheduled board meeting. In the interim, the clinically supervising psychologist and disciplined credential holder shall continue to meet;

(8) Remain available to the clinically supervising psychologist to provide assistance and information as needed;

(9) Report any problem or concern to the board regarding the supervision and communicate a directive of the board to the clinically supervising psychologist;

(10) Review the quarterly report of supervision and forward the report to the supervision committee of the board for approval; and

(11) Meet with the clinically supervising psychologist and the disciplined credential holder at the end of the term of supervision to summarize the clinical supervision.

Section 14. Psychology Graduate Students. Graduate-level psychology students who are providing services in psychological health care settings including independent practice settings shall:

(1) Be clinically supervised by a psychologist licensed by the Board of Examiners of Psychology with health service provider status, licensed at the doctoral level by the State Board of Examiners in the state in which the training program exists, or by a licensed mental health professional approved by the training program who is affiliated with either the university training program or the practice setting;

(2) Be registered for credit in his or her course of study;

(3) Clearly identify their status as unlicensed psychology trainees to all clients and payers[~~payers~~];

(4) Give to all clients and payers[~~payers~~] the name of the licensed psychologist responsible for their work; and

(5) Not accept employment or placement to perform the same or similar activities following the completion of their university-sanctioned placement, regardless of the job title given, unless the student holds a license from the board.

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Supervisory Plans and Goals", December 2018;

(b) "Supervisory Report", December 2018; and

(c) "Request for Change of Supervisor and/or Frequency", October 2016.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Examiners of Psychology, 500 Mero Street, [~~911 Leawood Drive,~~] Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY



Andy Beshear
Governor

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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

RE: Board of Examiners of Psychology – Agency Amendments - Proposed Regulations
201 KAR 26:155 Licensed psychologists; application procedures and temporary license
201 KAR 26:171 Requirements for Clinical Supervision
201 KAR 26:180 Requirement for granting licensure as a psychologist by reciprocity
201 KAR 26:185 Requirements for granting licensure as a psychologist to an applicant
license in another state
201 KAR 26:230 Examinations and applications
201 KAR 26:290 Licensed psychological practitioner; application procedures

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached agency amendments to the above-listed regulations.

Sincerely,

/s/ Leah Cooper Boggs

Leah Cooper Boggs, General Counsel
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Agency Amendment

**BOARDS AND COMMISSIONS
Kentucky Board of Examiners of Psychology**

201 KAR 26:171. Requirements for clinical supervision.

Page 5

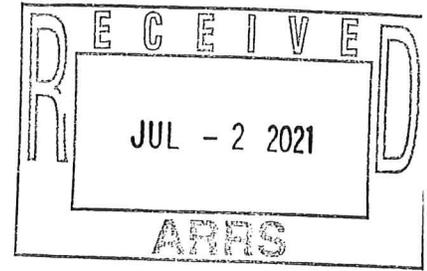
Section 6(2)(c)

Middle column

After "prior to jurisprudence", insert "and competency examinations".
Delete "exam".



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY



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Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
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029, Capitol Annex
Frankfort KY 40601

RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

- 201 KAR 26:115 Definition of psychological testing
- 201 KAR 26:121 Scope of practice and dual licensure
- 201 KAR 26:130 Grievances and administrative complaints
- 201 KAR 26:155 Licensed psychologists; application procedures and temporary license
- 201 KAR 26:171 Requirements for Clinical Supervision
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- 201 KAR 26:200 Education requirements
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- 201 KAR 26:250 Employment of a psychological associate, a temporarily licensed psychological associate, or a temporarily licensed psychologist
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AARS Letter
July 2, 2021
Page 2

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/s/ Leah Cooper Boggs

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Enclosure Staff Suggested Amendments

Subcommittee Substitute

BOARDS AND COMMISSIONS Board of Examiners [~~Examiners~~] of Psychology (As Amended at ARRS)

201 KAR 26:180. Requirements for granting licensure as a psychologist by reciprocity.

RELATES TO: KRS 319.032(1)(i)

STATUTORY AUTHORITY: KRS 319.032(1)(i)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(i) requires the board to promulgate an administrative regulation governing the granting of a license through reciprocity. This administrative regulation establishes the requirements for licensure as a psychologist by reciprocity.

Section 1. The board shall issue a license to an applicant who qualifies for a license as a psychologist pursuant to an agreement of reciprocity entered into by the board of this jurisdiction with the board or boards of any other jurisdiction or multiple jurisdictions.

Section 2. The applicant for licensure as a psychologist by reciprocity shall:

(1) Submit a completed Application for Licensure as a Psychologist by Reciprocity;

(2) Hold a current valid license in good standing to practice psychology that has been granted by at least one (1) state, ~~or~~ the District of Columbia, ~~or~~ a U.S. Territory, or a Canadian province that maintains a psychology registration board:

(a) That is a constituent member of the Association of State and Provincial Psychology Boards (ASPPB); and

(b) With whom this board has an agreement of reciprocity. ~~is~~

(3) Have a minimum of five (5) years of full-time practice or its equivalent as determined by the board in the other jurisdiction; and

(4) ~~Has~~ Not have been disciplined by any licensure board.

Section 3. The board shall conduct an examination on psychological practice of an applicant for licensure by reciprocity. The applicant shall demonstrate an acceptable level of knowledge of Kentucky mental health law. An applicant shall score at least an eighty (80) percent to pass the ~~structured~~ jurisprudence examination of Kentucky mental health law. An applicant shall score a 100 percent to pass the oral examination on ethical principles and professional practice.

Section 4. An applicant for licensure with the health service provider designation shall comply with KRS 319.050(7).

Section 5. If an applicant for licensure with the health service provider designation does not have an additional 1,800 hours of supervised experience as required by KRS 319.050 and 201 KAR 26:125, the board may determine that the applicant's practice experience is equivalent to the required year of experience. The board may substitute an applicant's employment experience for

the additional 1,800 hours of supervised experience as required by KRS 319.050 and 201 KAR 26:125, and may award the applicant the Health Service Provider designation.

Section 6. A person holding the Certificate of Professional Qualification in Psychology (CPQ) issued by the ASPPB or a successor organization or a person who holds a certificate from the National Register of Health Service Providers in Psychology, the American Board of Professional Psychology (ABPP), or a successor organization and has a minimum equivalent of five (5) years of full-time practice at the independent level and has had no disciplinary action taken by a licensure board or on record in the ASPPB database shall:

(1) Be deemed to meet the qualifications for licensure by reciprocity as established in this administrative regulation; and

(2) Upon meeting the requirements established in Section 3 of this administrative regulation, shall be granted a license with the health service provider designation.

Section 7. An applicant for licensure as a psychologist by reciprocity may request permission to practice psychology at the doctoral level on a temporary basis pursuant to KRS 319.050(3). The request for a temporary credential shall be issued in accordance with 201 KAR 26:155, Section 2. The temporary credential shall expire in accordance with 201 KAR 26:155, Section 2(5).

Section 8. Incomplete Application. An incomplete application shall be determined to be expired one (1) year from the date of filing and may be destroyed.

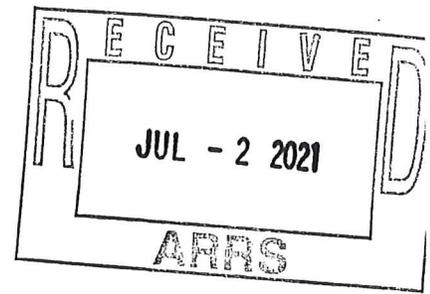
Section 9. Incorporation by Reference. (1) "Application for Licensure as a Psychologist by Reciprocity", [~~February 2017~~] March 2021, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Examiners of Psychology, 500 Mero Street [~~911 Leawood Drive~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material may be directly viewed on the agency's Web site, www.psy.ky.gov.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY



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Agency Amendment

**BOARDS AND COMMISSIONS
Board of Examiners of Psychology**

201 KAR 26:180. Requirements for granting licensure as a psychologist by reciprocity.

Page 2

Section 3

Line 7

After "shall conduct", insert "a jurisprudence and competency".
Delete "an".

Page 2

Section 3

Lines 8 and 9

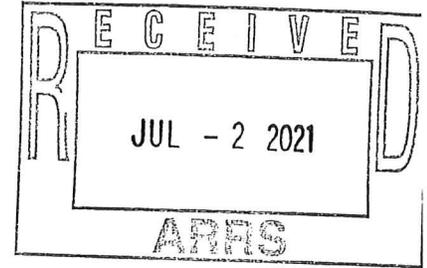
After "by reciprocity", insert the following:

as outlined in 201 KAR 26:230, Section 1(2)

Delete the remainder of the section.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY



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/s/ Leah Cooper Boggs

Leah Cooper Boggs, General Counsel
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Enclosure Staff Suggested Amendments

Subcommittee Substitute
BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS)

201 KAR 26:185. Requirements for granting licensure as a psychologist to an applicant licensed in another state.

RELATES TO: KRS 319.032(1) (a), (i), 319.050(2)

STATUTORY AUTHORITY: KRS 319.032(1) (i)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1) (a) requires the Board of Examiners of Psychology to promulgate administrative regulations to establish requirements for licensure. KRS 319.032(1)(i) requires the board to promulgate an administrative regulation governing reciprocal agreements with other states. This administrative regulation establishes the requirements for granting a license to an applicant who is licensed in another state that does not have an agreement of reciprocity with this board.

Section 1. (1) The board shall consider an applicant for licensure in psychology in Kentucky who:

(a) Is licensed in another state that does not have an agreement of reciprocity with the Kentucky Board of Examiners of Psychology;

(b) Holds a current valid license or certificate, in good standing, to practice psychology that has been granted by:

1. At least one (1) state;

2. The District of Columbia; or

3. A Canadian province that maintains a psychology registration board that is a constituent member of the Association of State and Provincial Psychology Boards (ASPPB).~~;~~

(c) Has a minimum of five (5) years of full-time practice or its equivalent as determined by the board in the other jurisdiction; and

(d) Has not been disciplined by any psychology licensure board.

(2) The board shall consider if the applicant meets the requirements established in KRS 319.050(2). If an applicant for licensure does not have the supervised experience as required by KRS 319.050(2)(d), the board may determine that the applicant's practice experience is equivalent to the required supervised experience based upon the information submitted in the application.

(3) An applicant for licensure as a psychologist shall submit:

(a) A completed Application for Licensure of a Psychologist Licensed in Another State with the supplementary documentation required by this subsection to the board, ~~or~~ to an online application management system contracted by the board for the purposes of application screening, or as the board directs;

(b) Three (3) letters of reference from persons qualified to evaluate the applicant's professional ability, including two (2) persons who have received a doctorate in psychology (Ph.D. PsyD., Ed.D.);

(c) An official transcript for all levels of education required for licensure. Transcripts **shall [must]** be received in sealed envelopes or electronically directly from the school or a third-party clearinghouse;

(d) A Curriculum Vitae that demonstrates five (5) years of full-time practice of psychology;

(e) To the Examination for Professional Practice in Psychology (EPPP):

1. Developed by the ASPPB examination contractor; and

2. Owned by the ASPPB. ~~[;]~~

(f) A verified computerized EPPP scaled score of 500 or greater. The board shall accept the applicant's previous examination results for the national EPPP examination if the original test scores satisfied the doctoral licensure requirement as to criterion level at the time of that examination; and

(g) ~~Payment of \$200~~ Payment of the application fee, **which shall be:**

1. Made payable directly to the Kentucky State Treasurer if the application is processed through the board; or **[payment shall be]**

2. Made to the online application management system as directed by the board.

(4) The board shall review the applicant's:

(a) Record as to complaints or hearings held in previous jurisdictions; and

(b) Professional references.

Section 2. An applicant for licensure as a psychologist shall submit to a ~~[structured]~~ jurisprudence examination on Kentucky mental health law. An applicant shall score at least an eighty (80) percent to pass the ~~[structured]~~ jurisprudence examination of Kentucky mental health law.

Section 3. In addition to meeting the requirements in Section 2 of this administrative regulation, an applicant for licensure as a psychologist shall submit to a ~~[structured]~~ oral examination on ethical principles and professional practice administered by two (2) licensed psychologists.

(1) Each examiner shall independently rate the applicant's performance.

(2) The applicant shall demonstrate an acceptable level of knowledge in each of the areas in order to pass the examination.

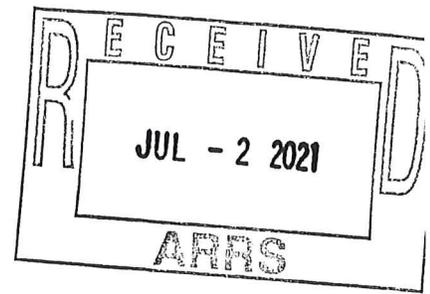
(3) An applicant who receives a pass rating from the two (2) examiners shall have successfully passed the oral examination and shall be eligible to be granted a license as a licensed psychologist.

(4) An applicant shall score a 100 percent to pass the oral examination on ethical principles and professional practice.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY



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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

RE: Board of Examiners of Psychology – Agency Amendments - Proposed Regulations
201 KAR 26:155 Licensed psychologists; application procedures and temporary license
201 KAR 26:171 Requirements for Clinical Supervision
201 KAR 26:180 Requirement for granting licensure as a psychologist by reciprocity
201 KAR 26:185 Requirements for granting licensure as a psychologist to an applicant
license in another state
201 KAR 26:230 Examinations and applications
201 KAR 26:290 Licensed psychological practitioner; application procedures

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached agency amendments to the above-listed regulations.

Sincerely,

/s/ Leah Cooper Boggs
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Agency Amendment

**BOARDS AND COMMISSIONS
Board of Examiners of Psychology**

201 KAR 26:185. Requirements for granting licensure as a psychologist to an applicant licensed in another state.

Page 2

Section 1(1)(b)2.

Lines 4 and 5

After "Columbia;" delete "or".

After "3.", insert the following:

A United States Territory; or

4.

Page 4

Section 2

Lines 4, 5, and 6

After "examination", insert the following:

as outlined in 201 KAR 26:230 Section 1(2).

Delete the following:

on Kentucky mental health law. An applicant shall score at least an eighty (80) percent to pass the structured jurisprudence examination of Kentucky mental health law.

Page 4

Section 3

Lines 8 through 17

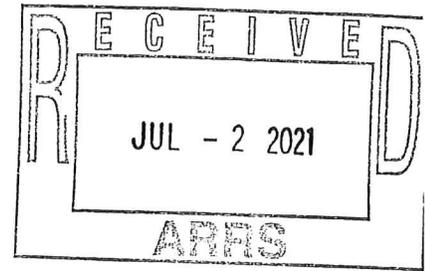
After "submit to a", insert "competency".

Delete "oral".

After "examination", insert the following:

as outlined in 201 KAR 26:230 Section 1(2)

Delete the remainder of Section 3.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

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Administrative Regulation Review Subcommittee
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029, Capitol Annex
Frankfort KY 40601

RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

201 KAR 26:115	Definition of psychological testing
201 KAR 26:121	Scope of practice and dual licensure
201 KAR 26:130	Grievances and administrative complaints
201 KAR 26:155	Licensed psychologists; application procedures and temporary license
201 KAR 26:171	Requirements for Clinical Supervision
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201 KAR 26:190	Requirements for supervised professional experience
201 KAR 26:200	Education requirements
201 KAR 26:230	Examinations and applications
201 KAR 26:250	Employment of a psychological associate, a temporarily licensed psychological associate, or a temporarily licensed psychologist
201 KAR 26:280	Licensed psychological associate: application procedures and temporary license
201 KAR 26:290	Licensed psychological practitioner; application procedures
201 KAR 26:310	Telehealth and telepsychology

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter
July 2, 2021
Page 2

Sincerely,

/s/ Leah Cooper Boggs

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Enclosure Staff Suggested Amendments

Subcommittee Substitute
BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS)

201 KAR 26:190. Requirements for supervised professional experience.

RELATES TO: KRS 319.050, 319.053, 319.056, 319.064

STATUTORY AUTHORITY: KRS 319.032, 319.050(2)(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(a) and (1)(l) require the Board of Examiners of Psychology to promulgate administrative regulations to establish requirements for licensure and supervision. This administrative regulation establishes requirements for supervised professional experience.

Section 1. Supervisory Requirements for an Applicant for Licensure as a Psychologist. (1) The applicant for licensure as a psychologist with the authorization to provide psychological health care services shall have completed a minimum of 3,600 hours of supervised professional experience in accordance with this administrative regulation.

(2) A minimum of 1,800 hours of the supervised professional experience shall be a pre-doctoral internship of 1,800 hours with at least 100 hours of supervisory sessions.

(3) The remaining 1,800 hours of supervised experience shall be pre-doctoral, postdoctoral, or a combination of pre- and post-doctoral supervised professional experience acceptable to the board based upon the requirements of Sections 2 and 3 of this administrative regulation.

(4) Supervised experience shall consist of practica, field placement, or other professional experiences not including the beginning courses and accompanying practica in assessment and treatment techniques.

(5) At least fifty (50) percent of the supervised experience shall be in service-related activities, such as treatment, assessment, interviews, report-writing, case presentations, and consultations.

Section 2. For a person applying for licensure as a psychologist, the pre-doctoral internship shall meet the following criteria:

(1) The experience shall occur within an organized training program, in contrast to supervised experience or on-the-job training and have a planned, programmed sequence of training experiences;

(2) The training program shall have a clearly designated staff psychologist who shall be:

(a) Responsible for the integrity and quality of the training program;

(b) Actively licensed by the Board of Examiners in Psychology; or

(c) Licensed at the doctoral level by the State Board of Examiners in the state in which the training program exists or otherwise meets the standards of applicable state law; and

(d) For school psychology doctoral internships, the responsible psychologist director may be from an affiliate agency or from the university training program. [?]

(3) Internship supervision shall be provided by a staff member of the internship agency or by an affiliate of that agency who has clinical responsibility for the cases being supervised. At least

half of the internship supervision shall be provided by one (1) or more psychologists with an appropriate doctorate degree;

(4) The internship shall provide training in a range of assessment and treatment activities conducted directly with clients seeking psychological services;

(5) At least twenty-five (25) percent of the trainee's time shall be in direct client contact;

(6) The internship shall include a minimum of two (2) hours per week of regularly scheduled, formal, face-to-face individual supervision. There shall also be at least two (2) additional hours per week in learning activities such as case conferences, seminars dealing with clinical issues, and group supervision;

(7) Training shall be post-clerkship, post-practicum, and post-externship level;

(8) The internship shall have a written statement or brochure that:

(a) 1. Describes the goals and content of the internship; and

2. States clear expectations for quality and quantity of the trainee's work; and

(b) Shall be made available to prospective interns. ~~./~~

(9) The internship experience shall be completed within twenty-four (24) months;

(10) The trainee shall have a title such as "intern", "resident," "fellow," or other designation of trainee status; and

(11) The internship agency, preparing institution, and intern shall have a written agreement that describes the goals and content of the internship including clearly stated expectations for the nature of experiences offered in the agency and for the quantity and quality of the work.

Section 3. Additional Required Supervisory Experience. (1) For a person applying for licensure as a psychologist to provide psychological health care services, the 1,800 hours of supervised professional experience, in addition to the internship required by KRS 319.050(2)(d), shall be a training-oriented professional experience that:

(a) May include course-related field experience and practica; and

(b) Shall not include the beginning courses and practica in assessment and treatment techniques.

(2) In addition to training in a range of diagnostic and treatment activities conducted directly with clients seeking psychological services, the supervised professional experience shall consist of a planned and organized sequence of activities that includes explicit training and supervision in the following areas:

(a) Clinical skill development;

(b) Legal and regulatory issues;

(c) Ethical dilemmas and issues; and

(d) Supervisory skill development.

(3) During the 1,800 hours of supervised professional experience in addition to the internship, the candidate shall:

(a) Be under supervision as required by 201 KAR 26:171; and

(b) Be providing psychological health care services under the supervision of a licensed psychologist or other licensed mental health professional approved by the doctoral training program who is affiliated with the training program or with the practice setting in a:

1. Health care facility or agency;

2. Regional mental health or mental retardation board;

3. School, college, or university;

4. Government agency;

5. Independent practice; or

6. Formalized postdoctoral internship program.

(4) The applicant and the supervisor of record shall design and describe the proposed experience, including the areas listed in subsection (2) of this section.

(5) If the supervised professional experience in addition to the internship is in an independent practice, a special application letter shall affirm:

(a) The identity of the applicant, supervisor, and employer;

(b) That the supervising licensed psychologist is not hired, employed, or engaged under contract by the applicant and shall not be terminated by the applicant;

(c) That the applicant is not ***an owner [one (1) of the owners]*** of the independent practice or organization, but rather serves as an employee; and

(d) That the applicant has both administrative and clinical supervision that shall be provided by the independent practice or employer.

(6) If the supervised experience is in a university setting, the application shall also:

(a) Be proffered by a full-time faculty member;

(b) Include a plan that contains each of the areas established in subsection (2) of this section; and

(c) Include a minimum of 400 hours of direct and indirect client involvement that:

1. Is supervised by a licensed psychologist; and

2. Includes:

a. Supervising student clinical work;

b. Diagnostic and interviewing activity that occurs within clinical research projects; or

c. Clinical work in the context of teaching psychotherapy, interviewing, or psychological testing.

(7) The board shall not grant a request for temporary licensure if the request does not contain an explicit and acceptable plan for the supervised experience as required by this section.

Section 4. An applicant for licensure as a psychological associate shall complete supervised experience consisting of course-related field experience, practica, and formal internships adding up to a minimum of 600 supervised hours that shall meet the following criteria:

(1) The experience shall occur within an organized training program and consist of a planned, programmed sequence of training experiences;

(2) The preparing institution's psychology training program shall have a clearly-designated placement director who shall be responsible for the integrity and quality of the experiential component of the training program;

(3) Weekly practicum and internship supervision shall be provided by a staff member of the placement agency, by an affiliate of that agency, or by a university faculty member. At least half of the supervision shall be provided by one (1) or more psychologists with an appropriate doctorate degree and license;

(4) Field experiences, practica, and internships shall provide training in a range of diagnostic and treatment activities conducted directly with clients seeking psychological services;

(5) At least twenty-five (25) percent of the trainee's time shall be in direct client contact;

(6) The preparing institution shall maintain a written statement or brochure describing the goals and content of the required field experiences, practica, and internships; and

(7) Students participating in university-sanctioned supervised experience shall be clearly identified to clients and ~~payers~~^{payors} as trainees.

Section 5. An applicant for licensure as a psychological practitioner shall complete the equivalent of five (5) full-time years of psychological practice under the direct supervision of a licensed psychologist approved by the board, consistent with the requirements of 201 KAR 26:171.

(1) For purposes of this requirement, a candidate shall complete the equivalent of five (5) full-time years of supervised experience from the date of initial credentialing as a psychological associate, excluding any period of temporarily licensed psychological associate.~~[with]~~ A full-time year comprises~~[comprising]~~ at least 1,800 hours of supervised professional experience.

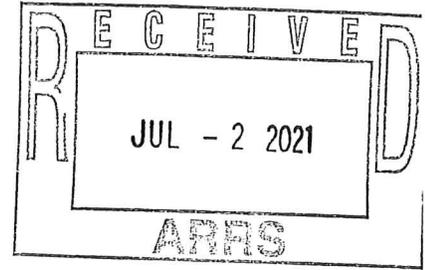
(2) A school psychologist who is employed in a Kentucky school system, credentialed by the Professional Standards Board, and also credentialed as a psychological associate by this board, may contract for on-going clinical supervision in the school setting with a board-approved licensed psychologist who is neither an employee nor a contractor of the school system.

(a) The supervised professional experience shall meet the conditions of this administrative regulation and may be used by the licensed psychological associate employed by the school system to meet the requirements for application to become a licensed psychological practitioner.

(b) To fulfill the requirements of 201 KAR 26:171, there shall be an explicit written plan approved by the board between the school system, the school psychologist, and the board-approved supervisor that delineates roles and responsibilities, without restricting the ability of the school district to direct or control the activities of its employee.

(c) A person trained in school psychology, if employed by an agency other than a public school or engaged in practice outside of the school setting, shall obtain clinical supervision in the manner specified by 201 KAR 26:171.

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KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

201 KAR 26:115	Definition of psychological testing
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Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter
July 2, 2021
Page 2

Sincerely,

/s/ Leah Cooper Boggs

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Enclosure Staff Suggested Amendments

Subcommittee Substitute

BOARDS AND COMMISSIONS Board of Examiners of Psychology (As Amended at ARRS)

201 KAR 26:200. Education requirements.

RELATES TO: KRS 319.050, 319.053, 319.064

STATUTORY AUTHORITY: KRS 319.032, ~~319.053~~[319.050(2)(b)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1) (a) requires the Board of Examiners of Psychology to promulgate administrative regulations to establish requirements, standards, and tests to determine the moral, intellectual, educational, scientific, technical, and professional qualifications of applicants for licensure. KRS 319.050 establishes requirements for licensed psychologists. KRS 319.064 establishes requirements for licensed psychological associates. KRS 319.053(1)(c)(f) requires an applicant for licensure as a licensed psychological practitioner to document at least sixty (60) hours of graduate study in psychology or a related field acceptable to the board. This administrative regulation establishes education requirements for licensure by the board.

Section 1. Psychology Degree Requirements. For purposes of licensure, a degree in psychology shall:

- (1) Be from a recognized institution of higher learning as established in this administrative regulation;
- (2) Be clearly identified by the granting institution as a psychology program wherever the program may be administratively housed;
- (3) Be specified in pertinent institutional catalogs and brochures as intended to educate and train professional psychologists;
- (4) Require a dissertation for the degree as psychological in method and content and an expected product of doctoral training in psychology;
- (5) **Require that** any thesis required for the degree shall be psychological in method and content and an expected product of master's training in psychology;
- (6) Stand as a recognizable, coherent, organized entity within the institution;
- (7) Require within the psychology faculty clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;
- (8) Be an integrated, organized sequence of study;
- (9) Require an identifiable psychology faculty and a psychologist responsible for the program;
- (10) Require an identifiable body of students who are matriculated in that program for a degree; and
- (11) Include educational experiences with titles, such as practicum, internship, or field training, including:
 - (a) For a doctoral degree, require a ~~three (3)~~ six (6) graduate semester-hour practica, three (3) hours of psychotherapy, ~~IA~~counseling, ~~or IA~~intervention and three (3) hours of assessment, excluding industrial **and IA** organizational psychology[practicum]; ~~or~~.

(b) For a master's degree, require a minimum of 600 supervised hours in course-related field experience, practica, and formal internship, as part of the degree program.

Section 2. Psychology Curriculum Requirements. (1) In determining the approval of curricular experiences and course work, the board shall consider:

(a) The duration of graduate study:

1. For a doctoral degree, a minimum of three (3) years, including a minimum of one (1) full academic year in residence at the institution, consisting of a minimum of 250 contact hours or its equivalent of curricular experiences and course work delivered through face-to-face in person context with other students and with faculty of the institution, without regard to the specific physical location in which the course work is conducted; or

2. For a master's degree, a minimum of forty-five (45) semester hours.

(b) In addition to instruction in scientific and professional ethics and standards, research design and methodology, statistics and psychometrics, the core program shall require each student to demonstrate competence by including a minimum of three (3) or more graduate semester hours (five (5) or more graduate quarter hours) in each of these four (4) areas:

1. Biological bases of behavior, including the subject matters of physiological psychology, comparative psychology, neuropsychology, sensation and perception, and psychopharmacology;

2. Cognitive-affective bases of behavior, including the subject matters of learning, thinking, motivation, and emotion;

3. Social bases of behavior, including the subject matters of social psychology group process and organizational psychology and systems; and

4. Individual differences, including the subject matters of personality theory, human development, and abnormal psychology.

(c) In addition to the core program, the curriculum shall include appropriate course work in the specialty area of training. For candidates who seek to deliver or supervise psychological health services, ***the [such]*** training shall include specific training in diagnosis, psychological testing, assessment of individual differences, and the design and implementation of appropriate intervention techniques, such as psychotherapy, counseling, and consultation.

(2) The applicant shall provide any relevant documentation requested by the board to confirm compliance with or satisfaction of the requirements of this administrative regulation.

(3) A deficiency in course work or other requirements shall be corrected by appropriate remedial work.

Section 3. Psychology Accreditation Requirements. (1) A regionally accredited educational institution shall be accredited by one (1) of the following, or an equivalent accreditation entity:

(a) Southern Association of Colleges and Schools;

(b) Middle States Commission on Higher Education;

(c) Middle States Association of Colleges and Schools;

(d) New England Association of Schools and Colleges;

(e) North Central Association of Colleges and Schools;

(f) Northwest Commission on Colleges and Universities;

(g) Northwest Accreditation Commission; ***or [and]***

(h) Western Association of Schools and Colleges.

(2) Accreditation shall include accreditation by one (1) of the associations established in subsection (1) of this section at:

- (a) Level 3, master's degree granting accreditation;
 - (b) Level 4, doctoral degree granting accreditation; or
 - (c) Level 5, graduate or professional degree granting accreditation.
- (3) Licensed psychological practitioner educational requirements.

(a) Graduate course work shall be related to psychological practice and may include independent study and distance learning. All graduate course work shall have been offered by a regionally accredited university meeting the standards described in ~~[Sections 5 and 6 of]~~ this administrative regulation. Continuing education credits shall not qualify to meet this requirement.

(b) The applicant shall provide any documentation required by the board in the manner and form prescribed by the board to confirm compliance with or satisfaction of the requirements of this section.

(c) At the discretion of the board, any deficiency in course work or other requirements may be corrected by appropriate remedial work.

Section 4. (1) A regionally-accredited educational institution shall be accredited by any one (1) of the following:

(a) Southern Association of Colleges and Schools;

(b) Middle States Association of Colleges and Schools;

(c) New England Association of Colleges and Schools;

(d) North Central Association of Colleges and Schools;

(e) North Western Association of Schools and Colleges; or

(f) Western Association of Schools and Colleges [~~Southern Association of Colleges and Schools, Middle States Association of Colleges and Schools, New England Association of Colleges and Schools, North Central Association of Colleges and Schools, North Western Association of Schools and Colleges, and Western Association of Schools and Colleges~~].

(2) Accreditation shall be by one (1) of the associations listed in this section at Level 3, ~~[/]~~master's degree granting accreditation~~[/]~~.

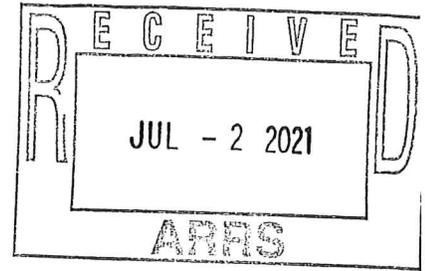
CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

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July 2, 2021

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Enclosure Staff Suggested Amendments

Subcommittee Substitute
BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS)

201 KAR 26:230. Examinations and applications.

RELATES TO: KRS 319.032(1)(a), 319.050, 319.053, 319.064

STATUTORY AUTHORITY: KRS 319.032(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(a) requires the board to promulgate an administrative regulation establishing the examination requirements for an applicant for licensure. KRS 319.050(1) and 319.064(2)(c), (3)(4)(e) require an applicant to successfully complete the required examination prior to licensure. This administrative regulation establishes the examination and application requirements.

Section 1. (1) The national examination shall be the Examination for Professional Practice in Psychology (EPPP) developed by the Association of State and Provincial Psychology Boards (ASPPB) examination contractor and owned by the ASPPB.

(a) The EPPP shall be taken by computer administration.

(b) The board shall submit to the ASPPB examination contractor a list of applicants eligible to sit for the examination.

(2) The ~~structured~~ jurisprudence examinations shall cover Kentucky mental health law, ethical principles, and professional practice, and shall consist of an oral competency exam and a written jurisprudence exam.

Section 2. General Requirements. (1) An applicant for licensure ~~[examination]~~ shall:

(a) 1. Submit a completed application as required by 201 KAR 26:155, Section 1, or **201 KAR 26:280**, Section 1; and

2. ~~[(b)]~~ Pay the applicable fee established in 201 KAR 26:160; or

(b) [1.] Submit the application required by subsection (1) of this section to the online application management system designated by the board **that** shall:

1. [(a)] Include a certification by the applicant that the:

a. [1.] Information in the application is true, correct, and complete to the best of their knowledge and belief; and

b. [2.] Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; and

2. [(b)] Be accompanied by **payment of the application fee that shall:**

a. Be [1. Payment of the application fee] made payable directly to the Kentucky State Treasurer if the application is processed through the board; or **[payment shall]**

b. Be made to the online application management system as directed by the board.

(2) [(f)] Once the Licensed Psychologist Applicant has completed all items, including sending supplemental materials, the online application management system completes a primary source verification process then forwards the application to the board for final review.

~~(3)~~~~(g)~~ The Credentialing Committee of the Board reviews the application and determines the applicant's eligibility for licensure.

~~(4)~~~~(2)~~ The applicant shall sit for the national (EPPP) examination within one (1) year of the notice of the application being approved by the board. An applicant may sit for the national (EPPP) examination at any approved ASPPB examination contractor testing center in the United States, U.S. Territories, or [and] Canada, ~~but shall register and apply for licensure in only one (1) jurisdiction].~~

~~(5)~~~~(3)~~ If an applicant loses eligibility to sit for the national (EPPP) examination because of failure to reschedule, cancel, or appear to take the examination as stated in subsection ~~(4)~~ ~~(2)~~ of this section:

- (a) The applicant shall forfeit all fees paid; and
- (b) Any temporary license issued to the applicant shall be terminated.

Section 3. Examination for Licensure as a Licensed Psychologist. (1) The applicant shall pass:

(a) The national (EPPP) examination in accordance with subsection (2) of this section; and

(b) The ~~[structured]~~ examinations on competency and jurisprudence **on** Kentucky mental health law, ~~ethical principles, and professional practice].~~

(2) The applicant shall obtain an EPPP scaled score of 500 or greater or shall have obtained a previous national EPPP passing score which satisfied the doctoral licensure requirement as to criterion level at the time of that examination. The applicant shall be notified by the board of the score, as well as of passing or failing the examination.

(3) If an applicant for licensure as a licensed psychologist fails the national (EPPP) examination, the candidate shall reapply to the board, pay the appropriate fee to the ASPPB examination contractor and be deemed eligible by the board to be permitted to sit again for the national (EPPP) examination.

(a) The candidate shall continue to function under the supervision of the board-approved supervisor until:

1. The national (EPPP) examination and ~~[structured]~~ jurisprudence examinations on Kentucky mental health law, ethical principles, and professional practice are successfully completed; or
2. The temporary license is terminated.

(b) The applicant for licensure as a licensed psychologist shall not be scheduled for the jurisprudence examination ~~[on Kentucky mental health law]~~ nor the oral competency examination until the national (EPPP) examination has been successfully passed and the board has determined that the requirements for supervised experience for licensure as a licensed psychologist have been met.

~~(4) [In addition to]~~ The jurisprudence examination shall require that the applicant ~~[demonstrating]~~ demonstrate an acceptable level of knowledge of Kentucky mental health law. ~~[.]~~ ~~[an applicant for licensure as a licensed psychologist shall submit to a structured oral examination administered by two (2) licensed psychologists approved by the board. The structured oral examination shall not be required for an applicant who holds a Certificate of Professional Qualification in Psychology (CPQ) issued by the ASPPB or a successor organization or is board-certified by the American Board of Professional Psychology (ABPP) or a successor organization or holds a current license in good standing from a jurisdiction with a reciprocity agreement with this board.]~~

(a) ~~[This structured oral]~~ The competency examination shall be administered by two (2) licensed psychologists approved by the board and shall cover ethical principles and professional practice. [The applicant shall demonstrate an acceptable level of knowledge in each of the areas in order to pass the examination.]

(b) Each examiner shall independently rate the applicant's performance.

(c) An applicant who receives a pass rating from each of the examiners shall have successfully passed the ~~[structured oral]~~ competency examination.

(5) If the applicant fails the first ~~[structured oral]~~ jurisprudence examination, the applicant may reapply with a detailed remediation plan, including **[but not limited to]** the process by which the applicant proposes to improve his or her performance on the examination, the time proposed to be spent on remediation, and with whom the applicant proposes to study or obtain further instruction.

(a) Upon completion of the remediation plan approved by the board, the applicant shall be administered a ~~[structured oral]~~ second examination. ~~[by a second team composed in the same manner as the first team.]~~

(b) If the second structured ~~[oral]~~ examination is not passed. ~~[failed],~~ the applicant may reapply with a further remediation plan approved by the board.

(c) Upon completion of the approved second remediation plan, the applicant shall be administered a ~~[structured oral]~~ third examination. ~~[by a team of the licensed psychologist members of the board and appointed examiners as needed.]~~

~~(d) A majority of the examining team shall rate the applicant as having passed or failed the structured oral examination on ethical principles and professional practice.]~~

(6) An applicant may only take the structured examination on three **(3)** occasions. If [the] an applicant for licensure as a licensed psychologist ~~[fails to]~~ does not pass on the third attempt, ~~[the structured oral examination, and wishes to]~~ they may apply to be credentialed as a licensed psychological associate[;] by completing an [a completed] application and paying the appropriate fee, as required by 201 KAR 26:160. [shall be submitted.] The board shall accept the applicant's previous examination results to satisfy the requirements for the licensed psychological associate application. ~~[as to criteria level.]~~

Section 4. Examination for Licensure as a Licensed Psychological Practitioner. (1) The applicant shall pass:

(a) A national (EPPP) examination unless the applicant's previous examination results for the national (EPPP) examination satisfied the doctoral licensure requirement as to criterion level at the time of that examination; or

(b) The applicant shall obtain a computerized national (EPPP) scaled score of 500 or greater. The applicant shall be notified by the board of the score, as well as of passing or failing the examination.

(2) Pursuant to KRS 319.050(3), an applicant for licensure as a licensed psychological practitioner who has been approved to sit for the national (EPPP) examination shall continue to be supervised until all requirements for licensure as a licensed psychological practitioner have been completed.

(3) If an applicant for licensure as a licensed psychological practitioner fails to obtain a scaled score of 500 or greater on the EPPP examination, the candidate may reapply to the board, pay the

appropriate fee to the ASPPB examination contractor and be permitted to sit for the national (EPPP) examination again.

(4) The applicant for licensure as a licensed psychological practitioner shall not be scheduled for ~~[the examination on] Kentucky examinations [mental health law, The applicant shall demonstrate an acceptable level of knowledge in each of the areas in order to pass the examination]~~ until the national (EPPP) examination has been successfully passed and the required five (5) years of supervised experience or its equivalent have been approved by the board.

(5) An applicant for licensure as a licensed psychological practitioner shall submit to a competency examination administered by an at least one (1) licensed psychologist and either a certified psychologist with autonomous functioning or a licensed psychological practitioner. The applicant for licensure as a licensed psychological practitioner shall also complete a jurisprudence examination. ~~[In addition to demonstrating an acceptable level of knowledge of Kentucky mental health law, an applicant for licensure as a licensed psychological practitioner shall submit to a structured oral examination administered by an examination team consisting of at least one (1) licensed psychologist and either a certified psychologist with autonomous functioning or a licensed psychological practitioner.]~~

(a) ~~[This structured oral]~~ The competency examination shall cover ethical principles and professional practice. ~~[The applicant shall demonstrate an acceptable level of knowledge in each of the areas in order to pass the examination.]~~

(b) Each examiner shall independently rate the applicant's performance, using the same criteria as the ~~[structured oral]~~ competency examination for licensed psychologist candidates.

(c) An applicant who receives a pass rating from each of the examiners shall have successfully passed the ~~[structured oral]~~ competency examination.

(6) If the applicant ~~[fails]~~ does not pass the ~~[first structured oral]~~ competency examination, the applicant may reapply with a detailed remediation plan, including **[but not limited to]** the process by which the applicant proposes to improve his or her performance on the examination, the time proposed to be spent on remediation, and how the applicant proposes to study or obtain further instruction. Once the remediation plan is completed, the second competency examination ~~[and]~~ shall be administered. ~~[a structured oral examination by a second team composed in the same manner as the first team.]~~

(7) If the applicant ~~[fails]~~ does not pass the second ~~[oral]-~~examination, the applicant may reapply with another detailed remediation plan, and shall be administered a ~~[structured oral]~~ third examination. ~~[by a team of the licensed members of the board and appointed examiners as needed. A majority of the examining team shall rate the applicant as having passed the examination.]~~

(8) An applicant may only take the examination three (3) times, and would have to remain as a Psychological Associate under board approved supervision if the examination is failed three (3) times.

Section 5. Examination for Licensure as a Psychological Associate. (1) The applicant shall:

(a) Obtain a national (EPPP) scaled score of 400 or greater; or

(b) Have obtained an EPPP passing score for licensure at the master's level in effect at the time of the applicant's previous national (EPPP) examination.

(c) The applicant shall be notified by the board of the score, as well as of passing or failing the examination.

(2) Pursuant to KRS 319.064(3), an applicant for licensure as a licensed psychological associate who has been approved to sit for the national (EPPP) examination and whose supervisory arrangement has been approved by the board shall be considered to be functioning under a temporary license.

(3) If an applicant for licensure as a psychological associate fails the national (EPPP) examination, the applicant shall:

(a) File a detailed remediation plan, cosigned by the supervisor within thirty (30) days of notice of failure; and

(b) Be eligible to retake the national (EPPP) examination upon approval of the plan by the board.

Section 6. Incorporation by Reference. (1)[The following is incorporated by reference in this regulation:

(a)] Application for Licensure as a Psychologist [as required by 201 KAR 26:155, Section 1 or 26:280, Section 1], March 2021, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Examiners of Psychology, 500 Mero Street, Frankfort, Kentucky, 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY



Andy Beshear
Governor

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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

RE: Board of Examiners of Psychology – Agency Amendments - Proposed Regulations
201 KAR 26:155 Licensed psychologists; application procedures and temporary license
201 KAR 26:171 Requirements for Clinical Supervision
201 KAR 26:180 Requirement for granting licensure as a psychologist by reciprocity
201 KAR 26:185 Requirements for granting licensure as a psychologist to an applicant
license in another state
201 KAR 26:230 Examinations and applications
201 KAR 26:290 Licensed psychological practitioner; application procedures

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached agency amendments to the above-listed regulations.

Sincerely,

/s/ Leah Cooper Boggs
Leah Cooper Boggs, General Counsel
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Public Protection Cabinet
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Agency Amendment

**BOARDS AND COMMISSIONS
Board of Examiners of Psychology**

201 KAR 26:230. Examinations and applications.

Page 1

Section 1(2)

Lines 18, 19, and 20

After "(2)", insert the following:

The Kentucky examinations shall consist of a jurisprudence examination of Kentucky mental health law, and a competency examination of ethical principles, and professional practice.

(a) A candidate shall score at least an eighty (80) percent to pass the jurisprudence examination.

(b) A candidate shall score a 100 percent to pass the competency examination.

Delete the remainder of Section 2 in its entirety.

Page 2

Section 2(1)(a)1.

Lines 2, 3, and 4

After "Section 1", insert "201 KAR".

Delete "or".

After "26:280, Section 1", insert the following:

, 201 KAR 26:180, Section 2, 201 KAR 26:185, Section 2, and 201 KAR 26:290, Section 1

Page 3

Section 3(1)(b)

Lines 11 and 12

After "The", insert "Kentucky".

After "examinations", insert the following:

as outlined in Section 1(2) of this administrative regulation. The competency examination shall be administered by two (2) licensed psychologists approved by the board

Delete the remainder of paragraph (b).

Page 4

Section 3(3)(a)1.

Lines 3 and 4

After "examination and", insert "Kentucky examinations".

Delete the following:

jurisprudence examinations of Kentucky mental health law, ethical principles, and professional practice

Page 4

Section 3(3)(b)

Lines 7 and 8

After "scheduled for the", insert "Kentucky examinations".

Delete the following:

jurisprudence examination on Kentucky mental health law nor the oral competency examination

Pages 4 and 5

Section 3(4)(a), (b), and (c)

Lines 12 through 20 and 1 through 7

After "(4)", insert the following:

The competency examination shall not be required for an applicant who is board-certified by the American Board of Professional Psychology (ABPP) or a successor organization or holds a current license in good standing from a jurisdiction with a reciprocity agreement with this board.

Delete the remainder of Subsection (4)(a), (b), and (c).

Page 5

Section 3(5)

Lines 8, 12, and 13

After "the applicant", insert the following:

does not pass either one of the Kentucky examinations on the first attempt.

Delete the following:

fails the first jurisprudence examination

After "further instruction", insert the following:

and any other information requested by the board

Page 5

Section 3(5)(b)

Line 16

Before "(b)", insert "(6)".

Delete "(b)".

After "If the", insert the following:

applicant does not pass either one of the Kentucky examinations on the second attempt, the applicant may reapply with an additional remediation plan. Upon completion of the remediation plan approved by the board, the applicant shall be administered a third examination.

Delete the remainder of paragraph (b).

Pages 5 and 6

Section 3(5)(c) and (d)

Lines 18 through 20 and 1 through 2

Delete paragraphs (c) and (d) in their entirety.

Page 6

Section 3(6)

Line 3

Before "(6)", insert "(7)".

Delete "(6)".

After "only take", insert "each one of".

After "structured", insert "examinations".

Delete "examination".

Page 7

Section 4(4)

Line 6

After "be scheduled for", insert "the".

Page 7

Section 4(5)

Lines 12 and 15

After "competency examination", insert the following:

as outlined in Section 1(2) of this administrative regulation

After "jurisprudence examination", insert the following:

as outlined in Section 1(2) of this administrative regulation

Delete paragraphs (a), (b), and (c) in their entirety.

Page 8

Section 4(6)

Lines 8, 12, 13, and 14

After "does not pass", insert the following:

either one of the Kentucky examinations on the first attempt

Delete "competency examination".

After "reapply with a", delete "detailed".

After "obtain further instruction", insert the following:

and any other information requested by the board. Upon completion of a remediation plan approved by the board, the applicant

Delete the following:

. Once the remediation plan is completed, the second competency examination
and

After "shall be administered", insert "a second examination".

Page 8

Section 4(7)

Lines 15 and 16

After "does not pass", insert the following:

either one of the Kentucky examinations on the second attempt.

Delete "the second examination".

After "reapply with", insert "an additional".

Delete "another detailed".

After "remediation plan", insert the following:

. Upon completion of a remediation plan approved by the board, the applicant

Delete ", and".

Page 9

Section 4(8)

Lines 1 and 2

After "only take", insert "each".

Delete "the".

After "approved supervision if", insert "either".

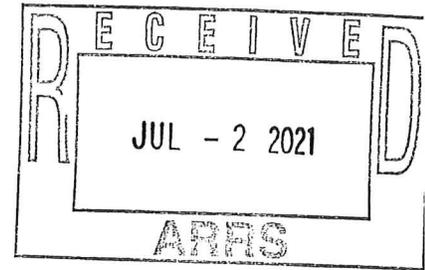
Delete "the".



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

Andy Beshear
Governor

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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

201 KAR 26:115	Definition of psychological testing
201 KAR 26:121	Scope of practice and dual licensure
201 KAR 26:130	Grievances and administrative complaints
201 KAR 26:155	Licensed psychologists; application procedures and temporary license
201 KAR 26:171	Requirements for Clinical Supervision
201 KAR 26:180	Requirement for granting licensure as a psychologist by reciprocity
201 KAR 26:185	Requirements for granting licensure as a psychologist to an applicant license in another state
201 KAR 26:190	Requirements for supervised professional experience
201 KAR 26:200	Education requirements
201 KAR 26:230	Examinations and applications
201 KAR 26:250	Employment of a psychological associate, a temporarily licensed psychological associate, or a temporarily licensed psychologist
201 KAR 26:280	Licensed psychological associate: application procedures and temporary license
201 KAR 26:290	Licensed psychological practitioner; application procedures
201 KAR 26:310	Telehealth and telepsychology

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter
July 2, 2021
Page 2

Sincerely,

/s/ Leah Cooper Boggs

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Enclosure Staff Suggested Amendments

Subcommittee Substitute

**BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS)**

201 KAR 26:250. Employment of a psychological associate, a temporarily licensed psychological associate, or a temporarily licensed psychologist.

RELATES TO: KRS 319.032(1)(b), 319.032(1)(l), 319.064(5)

STATUTORY AUTHORITY: KRS 319.032(1)(b), 319.032(1)(l)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(l) requires the Board of Examiners of Psychology to promulgate an administrative regulation governing the supervision and employment of a licensed psychological associate, temporarily licensed psychological associate, or ~~[a-a]~~ temporarily licensed psychologist. KRS 319.064(5) prohibits a licensed psychological associate, ~~[or-a]~~ temporarily licensed psychological associate, or [a] temporarily licensed psychologist from practicing independently, except under the employment and supervision of a board approved licensed psychologist. This administrative regulation establishes the requirements for the employment of a licensed psychological associate, ~~[or-a]~~ temporarily licensed psychological associate, or [a] temporarily licensed psychologist.

Section 1. Employment of a licensed psychological associate, [a] temporarily licensed psychological associate, or [a] temporarily licensed psychologist (which are licensees requiring supervision) by a regional mental health or [A] mental retardation board, college or university, or government agency shall not be considered independent practice.

Section 2. (1) A licensed psychological associate, ~~[or-a]~~ temporarily licensed psychological associate, or [a] temporarily licensed psychologist may be employed in a supervisor's independent practice, if the supervisor is responsible for the direction and control of the practice of the licensed psychological associate, ~~[or-a]~~ temporarily licensed psychological associate, or [a] temporarily licensed psychologist.

(2) ~~[Any such]~~ Employees shall be paid compensation. [Such] Employees shall [may] not be independent contractors and receive a Form 1099 for their compensation. Any independent contractor shall [must] have an independent license.

Section 3. (1) A special application shall:

(a) Be submitted to the board by the supervisor of record and a licensed psychological associate, ~~[or-a]~~ temporarily licensed psychological associate, or [a] temporarily licensed psychologist if:

1. a. The licensed psychological associate, ~~[or-a]~~ temporarily licensed psychological associate, or [a] temporarily licensed psychologist is employed in an independent practice; and

b. The supervisor of record is not the employer; or

2. The employer is not an organization listed in Section 1 of this administrative regulation.

(b) Be approved by the board before the practice begins.

(c) Identify the licensed psychological associate, ~~[or]~~ temporarily licensed psychological associate, or temporarily licensed psychologist[;]supervisor, and employer.

(d) Certify that:

1. The supervising licensed psychologist is not hired, employed, or engaged under contract by the licensed psychological associate, ~~[or]~~ temporarily licensed psychological associate, or temporarily licensed psychologist;

2. The licensed psychological associate, ~~[or]~~ temporarily licensed psychological associate, or temporarily licensed psychologist is not **an owner [one of the owners]** of the independent practice or organization, but rather serves as an employee; and

3. The licensed psychological associate, ~~[or]~~ temporarily licensed psychological associate, or temporarily licensed psychologist has both administrative and clinical supervision **that [which]** are provided by the independent practice or organization.

(2) The arrangement described in the application shall be approved by the board before the practice begins.

Section 4. A licensed psychological associate, ~~[or a]~~ temporarily licensed psychological associate, or temporarily licensed psychologist shall not pay, hire, or employ a supervisor to provide supervision in accordance with 201 KAR 26:171.

Section 5. A licensed psychological associate, ~~[or a]~~ temporarily licensed psychological associate, or temporarily licensed psychologist who works as an employee for more than one (1) independent practice or organization shall obtain approval from the board for a supervisor of record for each independent practice or organization and shall comply with 201 KAR 26:171 for approval to have more than two (2) supervisors of record.

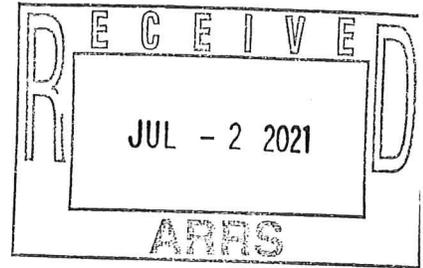
Section 6. In all communications and advertising with the public, the licensed psychological associate's, ~~[or]~~ temporarily licensed psychological associate's, or temporarily licensed psychologist's relationship with the employer and the supervisor shall be clearly indicated.

Section 7. The licensed psychological associate, ~~[or]~~ temporarily licensed psychological associate, or temporarily licensed psychologist and the supervisor shall comply with the requirements for supervision established in 201 KAR 26:171.

Section 8. Incorporation by Reference. (1) "Special Application", (~~[October 2016]~~March 2021 edition), is incorporated by reference.

~~(2)~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Examiners of Psychology, 500 Mero Street~~[911 Leewood Drive]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be found on the Board's Web site, www.psy.ky.gov.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
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029, Capitol Annex
Frankfort KY 40601

RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

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Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter
July 2, 2021
Page 2

Sincerely,

/s/ Leah Cooper Boggs

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Enclosure Staff Suggested Amendments

Subcommittee Substitute

BOARDS AND COMMISSIONS Board of Examiners of Psychology (As Amended at ARRS)

201 KAR 26:280. Licensed psychological associate: application procedures and temporary license.

RELATES TO: KRS 319.064

STATUTORY AUTHORITY: KRS 319.032(1)(a), (c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(a) and (c) require the Board of Examiners of Psychology to promulgate administrative regulations establishing the requirements for an applicant for licensure as a psychological associate. This administrative regulation establishes the requirements for applicants for licensure and the conditions for a temporary license.

Section 1. Application. (1) **After the requirements established in KRS 319.064(2) are met,** an application for a credential to perform certain functions as a licensed psychological associate may be submitted ~~**after the requirements established in KRS 319.064(2) are met**~~ **to the board, ~~or~~ to an online application management system contracted by the board for the purposes of application screening, or as the board directs.**

(2) The application required by subsection (1) of this section shall **be made to the board or to the online application management system and shall:**~~shall be made by submitting a completed Application for Licensure as a Psychological Associate to the board. The application shall:~~

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of ~~his or her~~ **their** knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification.~~]; and]~~

(b) Be accompanied by **payment of the application fee that shall:**

1. **Be [Payment of the application fee] made payable directly to the Kentucky State Treasurer if the application is processed through the board;]; or [payment shall]**

2. Be made to the online application management system as directed by the board.

~~1. A check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 26:160;~~

(c)[2.] Include three (3) letters of reference or completed Recommendation Form for Licensure as a Psychological Associate from persons qualified to evaluate the applicant's professional ability, including two (2) persons who have received a doctorate in psychology (Ph.D., Psy.D., or Ed.D.); and

(d)[e.] Include an official transcript for all levels of education required for licensure. **Transcripts shall [must] be received in sealed envelopes or electronically directly from the school or a third-party clearinghouse.**

(3) Incomplete Application. An incomplete application shall be determined to be expired one (1) year from the date of filing, and may be destroyed.

Section 2. Temporary Licensure. (1) An applicant may request permission to perform functions as a licensed psychological associate on a temporary basis pursuant to KRS 319.064(3).

(2) The request for a temporary credential shall be co-signed by the candidate and the proposed supervisor, who shall be a licensed psychologist approved by the board and who holds the health services provider designation.

(3)(a) A temporary license shall be valid for one (1) year from the date of the notice of approval by the board.

(b) During the period of temporary licensure, a candidate shall:

1. Successfully complete all credentials and examination procedures; and
2. Pass the Examination for Professional Practice in Psychology (EPPP).

(4)(a) Under exceptional circumstances and upon written request cosigned by the board approved supervisor, the board may approve an extension of the period of temporary licensure.

(b) A licensee shall submit a completed Request for Extension of Temporary Licensure as a Psychological Associate to the board to request an extension.

(c) If a temporary license requires an extension after one (1) year, the licensee may request a six (6) month extension.

(d) After the six (6) months, a second extension may be requested for an additional six (6) months.

(e) After a total of two (2) years of ~~for~~ extensions, the licensee may request a second temporary license following the ~~mentioned~~ steps in this section.

(f) If after two (2) years on the second temporary license another extension is requested, the licensee may request a third temporary license following the ~~mentioned~~ steps in this section.

(g) Licensees shall not exceed a total of six (6) years of extensions for all temporary licenses nor hold a temporary license longer than six (6) years.

(h) All extensions are provided by the board at the board's discretion.

Section 3. Grace Period for Submission of Credentials. **[In order]** To allow for processing of the candidate's materials by the board, there shall be a grace period not to exceed sixty (60) days within which a candidate who has completed his or her degree requirements may begin employment by an agency to practice psychology under supervision with a board-approved supervisor. (1) Upon acceptance of employment, the candidate and the licensed psychologist with health service practitioner designation who shall serve as the clinical supervisor shall immediately submit a letter of notice to the board indicating that he or she has begun to practice in Kentucky and that application materials are forthcoming. Failure to submit this notice may be grounds for disciplinary action against the candidate and the clinical supervisor.

(2) It shall be the responsibility of the candidate to ensure that all materials are forwarded to the board within thirty (30) days from the date of agency employment. Once the application is complete, the board shall review the material at its next scheduled meeting and, if appropriate, issue either a temporary or permanent credential. If the candidate does not meet the requirements

for the credential, or if [~~his or her~~] their application material is insufficient to take any action, [~~he or she~~] they shall be directed to cease practice until the requirements are met.

(3) The grace period shall not be extended beyond sixty (60) days. A candidate who fails to achieve approval within this timeframe shall not practice psychology until credentialed by the board.

(4) Upon filing the notice set forth in subsection (1) of this section, the candidate shall be practicing psychology under the jurisdiction of the board, and shall be subject to KRS Chapter 319 and 201 KAR Chapter 26.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Licensure as a Psychological Associate", [~~February 2017~~] March 2021;

(b) "Recommendation Form for Licensure as a Psychological Associate", [~~February 2017~~] March 2021; and

(c) "Request for Extension of Temporary Licensure as a Psychological Associate", [~~February 2017~~] March 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Examiners of Psychology, 500 Mero Street [~~911 Leawood Drive~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

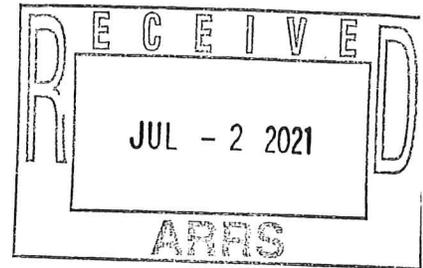
CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

Andy Beshear
Governor

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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

201 KAR 26:115	Definition of psychological testing
201 KAR 26:121	Scope of practice and dual licensure
201 KAR 26:130	Grievances and administrative complaints
201 KAR 26:155	Licensed psychologists; application procedures and temporary license
201 KAR 26:171	Requirements for Clinical Supervision
201 KAR 26:180	Requirement for granting licensure as a psychologist by reciprocity
201 KAR 26:185	Requirements for granting licensure as a psychologist to an applicant license in another state
201 KAR 26:190	Requirements for supervised professional experience
201 KAR 26:200	Education requirements
201 KAR 26:230	Examinations and applications
201 KAR 26:250	Employment of a psychological associate, a temporarily licensed psychological associate, or a temporarily licensed psychologist
201 KAR 26:280	Licensed psychological associate: application procedures and temporary license
201 KAR 26:290	Licensed psychological practitioner; application procedures
201 KAR 26:310	Telehealth and telepsychology

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter
July 2, 2021
Page 2

Sincerely,

/s/ Leah Cooper Boggs

Leah Cooper Boggs, General Counsel
Department of Professional Licensig
Office of Legal Services
Public Protection Cabinet
500 Mero Street
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lboggs@ky.gov
502-782-0151 (office)
502-229-9389 (cell)

Enclosure Staff Suggested Amendments

**Subcommittee Substitute
6/1/2021**

**BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS)**

201 KAR 26:290. Licensed psychological practitioner: application procedures.

RELATES TO: KRS 319.053

STATUTORY AUTHORITY: 319.032(1)(a), (c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(a) and (c) require the Board of Examiners of Psychology to promulgate administrative regulations establishing the requirements for an applicant for licensure as a psychological practitioner. This administrative regulation establishes the requirements for these applicants.

Section 1. Application. (1) **After the requirements established in KRS 319.053(1) are met,** an applicant for licensure as a licensed psychological practitioner shall submit a completed Application for Licensure as a Psychological Practitioner **[after the requirements established in KRS 319.053(1) are met]** to the board, **[or]** to an online application management system contracted by the board for the purposes of application screening, **or** as the board directs.

(2) The application shall:

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of ~~[his or her]~~ their knowledge and belief; **and**

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification. ~~[; and]~~

(b) Be accompanied by **payment of the application fee that shall:**

1. **Be** ~~[A payment to the Kentucky State Treasurer for the application fee as required by 201 KAR 26:160;]~~ **[Payment of the application fee]** made payable to the Kentucky State Treasurer if the application is processed through the board; **or [payment shall]**

2. Be made to the online application management system as directed by the board.

~~(c)[2.] [Three (3) letters of completed Recommendation for Licensure as a Psychological Practitioner from persons who are familiar with the clinical work of the applicant. One (1) letter shall be from the current board approved supervisor of record outlining the candidate's scope of practice and the other two (2) letters shall be from licensed mental health professionals acceptable to the board;]~~ **Include** two (2) letters of completed Recommendation for Licensure as a Psychological Practitioner forms from licensed mental health professionals acceptable to the board who are familiar with the clinical work of the applicant; ~~[;]~~ ~~[outlining the candidate's scope of practice and the other two (2) letters shall be from licensed mental health professionals acceptable to the board; and]~~

(d)[3.] Include an official transcript for all levels of education required for licensure. **Transcripts shall [must]** be received in sealed envelopes or electronically directly from the school or a third-party clearinghouse; and

(e)[4.] Include one (1) completed Supervisor Recommendation for Licensure as a Psychological Practitioner **that** shall be from the current board-approved clinical supervisor of record.

(3)[(e)] An incomplete application may be determined to be expired one (1) year from the date of filing, and may be destroyed.[

4. A completed Supervisor Recommendation for Licensure as a Psychological Practitioner.]

Section 2. Temporary Licensure. Temporary credentials shall not be issued to persons applying for licensed psychological practitioner status. An applicant may continue to practice under board-approved supervision as a licensed psychological associate or as a certified psychologist pending successful completion of all requirements for a change of status to a licensed psychological practitioner.

(1) The candidate shall obtain an acceptable score on the national (EPPP) examination as established in 201 KAR 26:230, Section 4.

(2) The board shall accept the applicant's previous examination results for the national (EPPP) examination if the original test score satisfied the doctoral licensure requirement as to criterion level at the time of that examination.

(3) The applicant shall pass the [structured] competency and jurisprudence examinations on Kentucky mental health law, ethical principles, and professional practice established in 201 KAR 26:230, Section 4(5). An applicant shall score at least an eighty (80) percent to pass the [structured] jurisprudence examination of Kentucky mental health law. An applicant shall score a 100 percent to pass the [oral] competency examination on ethical principles and professional practice.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Licensure as a Psychological Practitioner", [~~February 2017~~] March 2021;

(b) "Supervisor Recommendation for Licensure as a Psychological Practitioner", [~~February 2017~~] March 2021; and

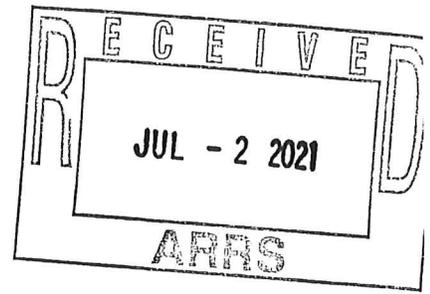
(c) "Recommendation for Licensure as a Psychological Practitioner", [~~February 2017~~] March 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Examiners of Psychology, 500 Mero Street, [~~911 Leawood Drive~~] Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. These materials may also be viewed on the Board's Web site.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY



Andy Beshear
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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

RE: Board of Examiners of Psychology – Agency Amendments - Proposed Regulations
201 KAR 26:155 Licensed psychologists; application procedures and temporary license
201 KAR 26:171 Requirements for Clinical Supervision
201 KAR 26:180 Requirement for granting licensure as a psychologist by reciprocity
201 KAR 26:185 Requirements for granting licensure as a psychologist to an applicant
license in another state
201 KAR 26:230 Examinations and applications
201 KAR 26:290 Licensed psychological practitioner; application procedures

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached agency amendments to the above-listed regulations.

Sincerely,

/s/ Leah Cooper Boggs
Leah Cooper Boggs, General Counsel
Department of Professional Licensig
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Agency Amendment

**BOARDS AND COMMISSIONS
Kentucky Board of Examiners of Psychology**

201 KAR 26:290. Licensed psychological practitioner: application procedures.

Pages 3 and 4

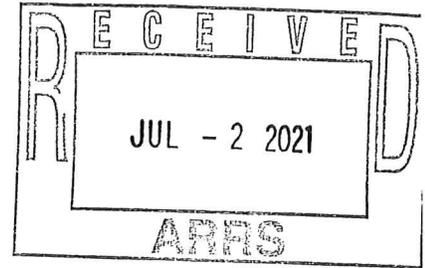
Section 2(3)

Lines 18, 19, and 1 through 4

After "(3)", insert the following:

The Kentucky examinations as outlined in 201 KAR 26:230 Section 1(2) shall be successfully completed by the applicant as described in 201 KAR 26:230, Section 4(5).

Delete the remainder of subsection 3.



KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

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July 2, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: Board of Examiners of Psychology – Staff Suggested Amendments - Proposed Regulations

201 KAR 26:115	Definition of psychological testing
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201 KAR 26:280	Licensed psychological associate: application procedures and temporary license
201 KAR 26:290	Licensed psychological practitioner; application procedures
201 KAR 26:310	Telehealth and telepsychology

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the above-listed regulations, the Board of Psychology proposes the attached amendments to the above-listed regulations.

AARS Letter
July 2, 2021
Page 2

Sincerely,

/s/ Leah Cooper Boggs

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Enclosure Staff Suggested Amendments

Subcommittee Substitute

BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS)

201 KAR 26:310. Telehealth and telepsychology.

RELATES TO: KRS 319.140[~~7~~29 U.S.C. 794(d)]

STATUTORY AUTHORITY: KRS 319.032(2), ~~[KRS]~~ 319.140(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.140 requires a treating psychologist utilizing telehealth to ensure a **patient's** [patient's] **[recipient's]** informed consent and to maintain confidentiality. This administrative regulation protects the health and safety of the citizens of Kentucky and establishes procedures for preventing abuse and fraud through the use of telehealth, prevents fee-splitting through the use of telehealth, and utilizes telehealth in the provision of psychological services and in the provision of continuing education.

Section 1. Definitions. (1) "Client" is defined by 201 KAR 26:145, Section 3.~~[2]~~~~;~~

(2) "Telehealth" means~~[is defined by KRS 319.140(3)]~~~~;~~

~~(a)~~ delivery of health care-related services, by a provider who is a health care provider licensed in Kentucky, to a **patient [recipient]** through a face-to-face encounter with access to real-time interactive audio and video technology. **Telehealth shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call and shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9.**

~~(b) Shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call; and~~

~~(c) Shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9;~~

(3) "Telepsychology" means **the** "practice of psychology", as defined by KRS 319.010(7), between the psychologist and the **patient [recipient]** [patient] **that is provided using:**

(a) ~~[Provided using an]~~ Electronic communication technology; or

(b) Two (2) way, interactive, simultaneous audio and video.

(4) "Telehealth service" means any service that is provided via telehealth and is one (1) of the following:

(a) Event;

(b) Encounter;

(c) Consultation;

(d) Visit;

(e) Remote patient monitoring;

(f) Referral; or

(g) Treatment.

Section 2. Client Requirements. A credential holder using telehealth to deliver psychological services or who practices telepsychology shall, upon initial contact with the client:

- (1) Make reasonable attempts to verify the identity of the client;
- (2) Obtain alternative means of contacting the client other than electronically;
- (3) Provide to the client alternative means of contacting the credential holder other than electronically;
- (4) Document if the client has the necessary knowledge and skills to benefit from the type of telepsychology provided by the credential holder;
- (5) Use secure communications with clients, including encrypted text messages via e-mail or secure Web sites, and not use personal identifying information in non-secure communications;
- (6) Inform the client in writing about:
 - (a) The limitations of using technology in the provision of telepsychology;
 - (b) Potential risks to confidentiality of information due to technology in the provision of telepsychology;
 - (c) Potential risks of disruption in the use of telepsychology;
 - (d) When and how the credential holder will respond to routine electronic messages;
 - (e) ***The [In-what] circumstances in which*** the credential holder will use alternative communications for emergency purposes;
 - (f) Who else may have access to client communications with the credential holder;
 - (g) How communications can be directed to a specific credential holder;
 - (h) How the credential holder stores electronic communications from the client; and
 - (i) The reporting of clients required by 201 KAR 26:145, Section 7.

Section 3. Competence, Limits on Practice, Maintenance, and Retention of Records. **(1)** A credential holder using telehealth to deliver psychological services or who practices telepsychology shall:

- (a)[(1)]** Limit the practice of telepsychology to the area of competence in which proficiency has been gained through education, training, and experience;
- (b)[(2)]** Maintain current competency in the practice of telepsychology through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge;
- (c)[(3)]** Document the client's presenting problem, purpose, or diagnosis;
- (d)[(4)]** Follow the record-keeping requirements of 201 KAR 26:145, Section 6; **[and]**
- (e)[(5)]** Ensure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the credential holder disposes of electronic equipment and data; **and[-]**
- (f)[(6)]** Document the client's written informed consent to the services being provided and the provision of those services via telehealth, including that the patient has the right to refuse telehealth consultation or services, has been informed of alternatives to telehealth services, that the client shall be entitled to receive information from the provider regarding the services rendered, that the client's information shall be protected by applicable federal and state law regarding patient confidentiality, that the client shall have the right to know the identity of all persons present at any site involved in the telehealth services, and to exclude any such person **[(s)]**.

and **that** the client shall have the right to be advised, and to object to, any recording of the telehealth consultation or services.

~~(2)(7)~~The requirement of a written informed consent shall not apply to an emergency situation if the client is unable to provide informed consent and the client's legally authorized representative is not available.

Section 4. Compliance with Federal, State, and Local Law. A credential holder using telehealth to deliver psychological services or who practices telepsychology shall comply with:

(1) State law where the credential holder is credentialed and state law regarding the practice of psychology~~[be licensed to practice psychology]~~ where the client is ~~[domiciled]~~ located at the time services are rendered; and

(2) Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to make technology accessible to a client with disabilities;

Section 5. Representation of Services and Code of Conduct. A credential holder using telehealth to deliver psychological services or who practices telepsychology:

(1) Shall not, by or on behalf of the credential holder, engage in false, misleading, or deceptive advertising of telepsychology; **and**

(2) Shall comply with 201 KAR 26:145.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.



KENTUCKY BOARD OF LICENSURE FOR MARRIAGE & FAMILY THERAPISTS

Andy Beshear
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Shawn Oak
Chair

July 1, 2021

(Via email to RegsCompiler@LRC.KY.GOV)

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: **201 KAR 32:030 Fees.**
201 KAR 32:035 Supervision of marriage and family therapist associates.
201 KAR 32:060 Continuing education requirements.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 32:030, 201 KAR 32:035, and 201 KAR 32:060, the Board of Licensure for Marriage and Family Therapists proposes the attached amendments to 201 KAR 32:030, 201 KAR 32:035, and 201 KAR 32:060.

Sincerely,

Kevin R. Winstead, Acting Commissioner
Department of Professional Licensing
Kentucky Public Protection Cabinet
500 Mero Street, 264SC, Frankfort, KY 40601
502-782-0562 (office) | KevinR.Winstead@ky.gov

Final 6-28-2021

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS

Board of Licensure of Marriage and Family Therapists

201 KAR 32:030. Fees.

RELATES TO: KRS 335.330, 335.340(1), (3), 335.342

STATUTORY AUTHORITY: KRS 335.320(4), 335.330, 335.340(1), (3), 335.348

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.330 requires the board to promulgate an administrative regulation establishing the initial fee for licensure required to be paid by an applicant for licensure and requires an applicant to pass a written examination prescribed by the board. KRS 335.340(1) requires that all licenses issued under KRS 335.330 shall be renewed annually, and that the board promulgate an administrative regulation establishing the fee for licensure renewal. KRS 335.340(3) requires the board to promulgate an administrative regulation establishing the late renewal fee. This administrative regulation establishes fees for licensure as a marriage and family therapist or marriage and family therapy~~[therapist]~~ associate.

Section 1. Initial Application Fee. The initial application fee for licensure as a marriage and family therapist shall be:

- (1) Fifty (50) dollars;
- (2) Nonrefundable; and
- (3) Payable to the Kentucky State Treasurer.

Section 2. Initial Licensure Fee. The initial fee for licensure as a marriage and family therapist shall be:

- (1) \$175;
- (2) Nonrefundable; and
- (3) Payable to the Kentucky State Treasurer.

Section 3. Initial Application. (1) An applicant for licensure as a marriage and family therapist shall submit a completed Licensure as a Marriage and Family Therapist Application to the board in accordance with KRS 335.330 and with the fees required under Sections 1 and 2 of this administrative regulation.

(2) The applicant shall complete six (6) hours of training in the field of suicide assessment, treatment, and management every six (6) years as required by 201 KAR 32:060, Section 1(4).

(3) The applicant shall complete the three (3) hours of training in the field of domestic violence, **elder abuse, neglect, and exploitation** within three (3) years of licensure as required by 201 KAR 32:060, Section 1(5).

(4) The applicant shall document professional experience obtained as a marriage and family therapy~~[therapist]~~ associate, including 1,000 client hours over a minimum of two (2) years, and verify clinical supervision as required by 201 KAR 32:035.

Section 4. Examination Fee. (1) An applicant shall pass the National Marital and Family Therapy Examination administered and verified by the Association of Marital and Family Therapy Regulatory Boards.

- (2) The applicant shall pay the required examination fee.

Section 5. Renewal Fee. (1) A licensed marriage and family therapist shall submit a complet-

ed Licensure as a Marriage and Family Therapist Renewal Application to the board in accordance with KRS 335.340.

(2) The fee for renewal of licensure as a marriage and family therapist shall be:

- (a) \$150 annually;
- (b) Nonrefundable; and
- (c) Payable to the Kentucky State Treasurer.

(3) The licensee shall complete six (6) hours of training in the field of suicide assessment, treatment, and management every six (6) years as required by 201 KAR 32:060, Section 1(4).

(4) The licensee shall complete the three (3) hours of training in the field of domestic violence, **elder abuse, neglect, and exploitation** within three (3) years of licensure as required by 201 KAR 32:060, Section 1(5).

(5) The licensee shall submit proof of completion of the continuing education requirements under 201 KAR 32:060.

Section 6. Late Renewal Fees. (1) A licensee who renews a license during the ninety (90) day grace period provided by KRS 335.340(3) shall pay a late renewal fee of seventy-five (75) dollars in addition to the payment of the renewal fee as established in Section 5 of this administrative regulation.

(2) The fee shall be:

- (a) Nonrefundable; and
- (b) Payable to the Kentucky State Treasurer.

Section 7. Administrative Fine. A licensee who fails to meet the continuing education unit requirements as set forth in 201 KAR 32:060, by the renewal date, shall pay an additional administrative fine of seventy-five (75) dollars.

Section 8. Reinstatement of Expired License. (1) In accordance with KRS 335.340, an expired license shall be reinstated by:

(a) Submitting a completed Application for License Reactivation;

(b) Paying of the renewal fee as established in Section 5 of this administrative regulation for each year since the date of last active licensure;

(c) Paying of a reinstatement fee of \$100, which shall be:

- 1. Nonrefundable; and
- 2. Payable to the Kentucky State Treasurer; and

(d) Meeting all other requirements of this section of this administrative regulation.

(2) The applicant for reinstatement of an expired license shall submit proof of:

(a) Completion of fifteen (15) hours of continuing education for each year since the date of last active licensure as required by 201 KAR 32:060;

(b) Completion of six (6) hours of training in the field of suicide assessment, treatment and management every six (6) years as required by 201 KAR 32:060, Section 1(4); and

(c) Completion of three (3) hours of training in the field of domestic violence, **elder abuse, neglect, and exploitation** within three (3) years of licensure as required by 201 KAR 32:060, Section 1(5).

Section 9. Fees for Providers of Continuing Education. (1) There shall be a nonrefundable fee of ~~\$100[fifty (50) dollars]~~ for a single continuing education workshop offered an unlimited number of times in a calendar year, January 1 to December 31. The provider shall submit the Continuing Education Program Provider Approval Application **at least sixty (60) days in advance of the commencement of the program and** with the applicable fee required under this subsection ~~[per day for six (6) continuing education workshops or less offered a single time]~~.

(2) There shall be a nonrefundable fee of \$300 for a provider designated as an approved

sponsor for continuing education and that is providing more than one (1) continuing education program for two (2) consecutive calendar years, January 1 to December 31. The provider shall submit the Application for Continuing Education Sponsor at least sixty (60) days in advance of the commencement of the program and with the applicable fee required under this subsection~~[\$125 per day for seven (7) or more continuing education workshops offered a single time].~~

~~(3) [There shall be a nonrefundable fee of \$250 for a single continuing education workshop offered unlimited times in a calendar year, January 1 to December 31.~~

~~(4) The provider shall submit the Continuing Education Program Provider Approval Application with the applicable fee required under subsections (1) through (3) of this section.~~

~~(5)] The marriage and family therapist, and the marriage and family therapy[therapist] associate shall submit the Application for Continuing Education Program Approval Individual for post approval only.~~

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Licensure as a Marriage and Family Therapist Application", July 2016;

(b) "Licensure as a Marriage and Family Therapist Renewal Application", July 2016;

(c) "Application for License Reactivation", July 2016;

(d) "Continuing Education Program Provider Approval Application", July 2021~~[September 2016]~~; ~~and]~~

(e) "Application for Continuing Education Program Approval Individual", 2016; ~~and~~

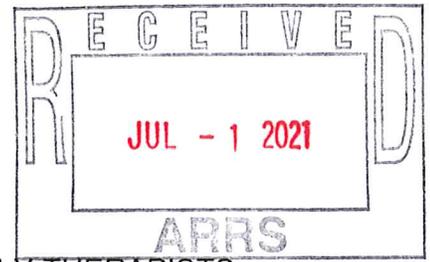
(f) "Application for Continuing Education Sponsor", May~~[January]~~ 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Marriage and Family Therapists, 500 Mero Street, 2SC 32~~[944 Leawood Drive]~~, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, Kentucky Public Protection Cabinet, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone 502-782-0562, fax 502-564-4818, KevinR.Winstead@ky.gov.

At the time that it files this staff suggested amendment the agency will need to file one (1) clean copy of the updated "Continuing Education Program Provider Approval Application" that:

- Updates the Edition Date to July 2021
- Updates the cross-reference to the section of the applicable administrative regulation.
- Updates the old fee amount of \$50 to \$100 and the description of what the fee covers.
- Updates the old fee amount of \$125 to \$300 and the description of what the fee covers.
- Deletes the reference to the old fee amount of \$250 and what the fee covered.
- Changes "should" to "shall" in the description of a filing requirement.



KENTUCKY BOARD OF LICENSURE FOR MARRIAGE & FAMILY THERAPISTS

Andy Beshear
Governor

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Frankfort, Kentucky 40602
Phone (502) 782-8809
Fax (502) 564-4818
<https://mft.ky.gov/>

Shawn Oak
Chair

July 1, 2021

(Via email to RegsCompiler@LRC.KY.GOV)

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: 201 KAR 32:030 Fees.
201 KAR 32:035 Supervision of marriage and family therapist associates.
201 KAR 32:060 Continuing education requirements.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 32:030, 201 KAR 32:035, and 201 KAR 32:060, the Board of Licensure for Marriage and Family Therapists proposes the attached amendments to 201 KAR 32:030, 201 KAR 32:035, and 201 KAR 32:060.

Sincerely,

Kevin R. Winstead, Acting Commissioner
Department of Professional Licensing
Kentucky Public Protection Cabinet
500 Mero Street, 264SC, Frankfort, KY 40601
502-782-0562 (office) | KevinR.Winstead@ky.gov

Final 6-28-2021

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS

Board of Licensure of Marriage and Family Therapists

201 KAR 32:035. Supervision of marriage and family therapy~~[therapist]~~ associates.

RELATES TO: KRS 335.300, 335.320(6), 335.330, 335.332

STATUTORY AUTHORITY: KRS 335.320(4), (5), (9)

NECESSITY FUNCTION AND CONFORMITY: KRS 335.320(9) requires the board to promulgate administrative regulations to implement KRS 335.300 to 335.399. KRS 335.320(4) requires the board to license applicants who satisfy the experience and educational requirements and who have paid the fee. KRS 335.320(5) requires the board to review and approve supervision contracts between marriage and family therapy associates and their approved supervisors. This administrative regulation establishes the supervision requirements for marriage and family therapy associates and their board-approved supervisors.

Section 1. Definitions. (1) "Group supervision" means supervision of three (3) to six (6) supervisees with the supervisor.

(2) "Individual supervision" means supervision of one (1) or two (2) supervisees with the supervisor.

(3) "Qualified mental health professional" means a licensed marriage and family therapist, licensed psychologist, licensed psychiatrist, licensed professional clinical counselor, or licensed clinical social worker.

(4) "Raw data" means video recorded sessions, live observation, or co-therapy with a board-approved supervisor.

(5) "Two (2) years of post-licensure experience in the practice of marriage and family therapy" means a minimum of two (2) years of the practice of marriage and family therapy consisting of 1,000 hours of direct, face-to-face or telehealth contact with individuals, couples, families, and groups in the practice of marriage and family therapy under the supervision of an approved supervisor. Face-to-Face **for the purposes of this definition** includes synchronous contact via technology assisted services for those who have met the training requirements of 201 KAR 32:110.

Section 2. Qualifications for Board-Approved Supervisors Status. (1) Until December 31, 2015, a board-approved supervisor shall be:

(a) An American Association for Marriage and Family Therapy (AAMFT) approved supervisor in good standing;

(b) An AAMFT supervisor candidate; or

(c) A marriage and family therapist in good standing, who is licensed in Kentucky and has a minimum of five (5) years of post-licensure~~[postlicensure]~~ experience in the practice of marriage and family therapy.

(2) Except as established in subsection (3) of this section, effective January 1, 2016, a board-approved supervisor shall be:

(a) An American Association for Marriage and Family Therapy (AAMFT) approved supervisor in good standing, who is licensed in Kentucky and has a minimum of two (2) years of post-licensure experience in the practice of marriage and family therapy;

(b) An AAMFT supervisor candidate in good standing who is licensed in Kentucky and has three (3) years of ~~post-licensure~~~~[postlicensure]~~ experience in the practice of marriage and family therapy; or

(c) A marriage and family therapist in good standing, who is licensed in Kentucky and has a minimum of five (5) years of ~~post-licensure~~~~[postlicensure]~~ experience in the practice of marriage and family therapy, with the last eighteen (18) months of experience being in Kentucky.

(3) AAMFT approved supervisors, AAMFT supervisor candidates, and non-AAMFT board approved supervisors, approved as of December 31, 2015, shall maintain board approved status.

(4) To obtain initial board-approved supervisor status, an applicant who is not an AAMFT supervisor or supervisor candidate in good standing shall provide proof of completion of six (6) hours of board-approved continuing education courses in supervision.

(a) The course shall be taken within the two (2) years preceding the date of application to become a board-approved supervisor.

(b) This requirement shall be in addition to the hours of continuing education required for licensure renewal.

(c) Each approved course shall be live or online and shall include:

1. Kentucky law governing the practice of marriage and family therapy, both in KRS 335.300 to 335.399 and 201 KAR Chapter 32;

2. Theories of supervision;

3. Ethical issues involved in supervision; and

4. Supervisor responsibilities such as logs, treatment planning, and recording.

(5) To maintain board-approved supervisor status, a non-AAMFT approved supervisor shall complete at least two (2) hours of continuing education in supervision every year. These two (2) hours shall be included in the hours of continuing education required for licensure renewal. Each approved course shall be live or online and shall include:

(a) Kentucky law governing the practice of marriage and family therapy, both in KRS 335.300 to 335.399 and 201 KAR Chapter 32;

(b) Theories of supervision;

(c) Ethical issues involved in supervision; and

(d) Supervisor responsibilities such as logs, treatment planning, and recording.

(6) To renew as a board-approved supervisor, an AAMFT approved supervisor or supervisor candidate shall complete at least one (1) hour of continuing education every year in Kentucky law governing the practice of marriage and family therapy found both in KRS 335.300 to 335.399 and 201 KAR Chapter 32. The course shall be attended live or online. The one (1) hour shall be included in the hours of continuing education required for licensure renewal.

Section 3. Clinical Supervision. (1) Clinical supervision shall:

(a) Be equally distributed throughout the qualifying period and shall average at least four (4) hours per month as specified in the supervision contract;

(b) Be clearly distinguishable from psychotherapy, didactic enrichment, or training activities;

(c) Focus on raw data from the supervisee's clinical work within in the last twelve (12) months;

(d) Be direct, face-to-face contact between the supervisor and supervisee~~[,]~~ or be conducted via live video conferencing if both the supervisor and supervisee have met the educational requirements of 201 KAR 32:110, Section 3(1) and (2)~~[unless an alternative form of supervision has been approved by the board based on undue burden for the supervisor or supervisee such as in cases of serious illness or injury];~~ and

(e) Continue until the supervisee is licensed by the board.

(2) The supervision process shall focus on:

- (a) Accurate diagnosis of client problems leading to proficiency in applying professionally recognized nomenclature and developing a plan for treatment as established in DSM 5: Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (2013);
- (b) Development of treatment skills appropriate to the therapeutic process;
- (c) Development of sensitivity to context and issues relating specifically to the family or individual being counseled;
- (d) Acknowledgment of an awareness of the use of the professional self of the therapist in the process of therapy;
- (e) Increased theoretical and applied knowledge for the therapist;
- (f) Acquisition of a greater depth of knowledge and range of techniques in the provision of marriage and family therapy; and
- (g) Awareness of ethical issues in practice, in order to safeguard and enhance the quality of care available to marriage and family therapy clients.

Section 4. Standards for Raw Data Used for Supervision. The use of raw data in a supervision session shall constitute a minimum of fifty (50) hours of the 200 hours of required supervision. In a group setting, raw data can only be used for an individual presenting or conducting the raw data, not the entire group.

Section 5. In a therapy session involving a board-approved supervisor and supervisee:

- (1) The role of the board-approved supervisor as a supervisor or co-therapist shall be clearly defined prior to beginning a therapy session; and
- (2) The supervisees shall receive credit for client contact hours and supervision hours.

Section 6. Documentation Requirements. (1) The board-approved supervisor and marriage and family therapy[~~therapist~~] associate shall maintain copies of the completed Supervisory Log, which shall document:

- (a) The frequency and type of supervision provided; and
 - (b) The method of supervision utilized, such as observation, dialogue and discussion, and instructional techniques employed.
- (2) No more than 100 hours of supervision shall take place in group supervision.
 - (3) At least 100 hours shall take place in individual supervision.

Section 7. Number of Supervisees. (1) A board-approved supervisor shall not supervise more than twelve (12)[~~six (6)~~] marriage and family therapy[~~therapist~~] associates at the same time, unless approved by the board.

(2) A request to supervise more than twelve (12)[~~six (6)~~] marriage and family therapy[~~therapist~~] associates shall be submitted to the board for approval and shall demonstrate in writing the supervisor's plan and ability to supervise additional marriage and family therapy[~~therapist~~] associates.

Section 8. Temporary Supervision. (1) In extenuating circumstances, if a marriage and family therapy[~~therapist~~] associate is without supervision, the associate may continue working up to ninety (90) calendar days under the supervision of a qualified mental health professional while an appropriate board-approved supervisor is sought and a new supervision contract is submitted to the board. Extenuating circumstances include situations such as death or serious illness of the board-approved supervisor, a leave of absence by the supervisor, or the termination of the supervisor's employment.

(2)(a) Within thirty (30) calendar days of a change in status of board-approved supervision, the supervisee shall:

- 1. Notify the board of these circumstances; and

2. Submit, in writing, a plan for resolution of the situation.

(b) The written plan shall include:

1. The name of the temporary supervisor;
2. Verification of the credential held by the temporary supervisor;
3. An address for the temporary supervisor; and
4. A telephone number for the temporary supervisor.

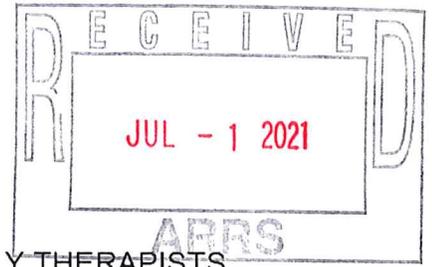
Section 9. Board-approved Supervisor's Responsibilities to Clients and Supervisees. (1) A board-approved supervisor shall be responsible for ensuring the proper and appropriate delivery of marriage and family therapy services to clients.

(2) A board-approved supervisor shall be responsible for fostering the professional competence and development of the marriage and family therapy~~[therapist]~~ associates under his or her supervision.

(3) A board-approved supervisor shall be responsible for compliance with the code of ethics established in 201 KAR 32:050 and take steps to ensure that supervisees comply with the code of ethics as well.

Section 10. Incorporation by Reference. (1) "Supervisory Log", 7/2015, is incorporated by reference. (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Professional Licensing~~[Kentucky Office of Occupations and Professions]~~, 500 Mero Street, 2 SC 32~~[944 Leawood Drive]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, Kentucky Public Protection Cabinet, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone 502-782-0562, fax 502-564-4818, KevinR.Winstead@ky.gov.



KENTUCKY BOARD OF LICENSURE FOR MARRIAGE & FAMILY THERAPISTS

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Governor

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Shawn Oak
Chair

July 1, 2021

(Via email to RegsCompiler@LRC.KY.GOV)

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: 201 KAR 32:030 Fees.
201 KAR 32:035 Supervision of marriage and family therapist associates.
201 KAR 32:060 Continuing education requirements.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 32:030, 201 KAR 32:035, and 201 KAR 32:060, the Board of Licensure for Marriage and Family Therapists proposes the attached amendments to 201 KAR 32:030, 201 KAR 32:035, and 201 KAR 32:060.

Sincerely,

Kevin R. Winstead, Acting Commissioner
Department of Professional Licensing
Kentucky Public Protection Cabinet
500 Mero Street, 264SC, Frankfort, KY 40601
502-782-0562 (office) | KevinR.Winstead@ky.gov

Final 6-28-2021

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS

Board of Licensure of Marriage and Family Therapists

201 KAR 32:060. Continuing education requirements.

RELATES TO: KRS 194.540, 210.366, 335.300(4), 335.340

STATUTORY AUTHORITY: KRS 335.320(4), (9), 335.340(7)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 335.320(4) requires the board to license marriage and family therapist applicants who satisfy experience and education requirements and have paid the fee required in KRS 335.330. KRS 335.320(9) requires the board to promulgate administrative regulations to implement KRS 335.330 to 335.339.**

KRS 335.340(7) authorizes the board to promulgate administrative regulations to establish the fees and other requirements for a permit as a marriage and family therapy[therapist and] associate. This administrative regulation establishes the requirements for continuing education and the methods and standards for the accreditation of continuing education courses.

Section 1. Accrual of Continuing Education Hours; Computation of Accrual. (1) Effective January 1, 2017, a minimum of fifteen (15) approved continuing education hours shall be accrued by each licensee and a minimum of ten (10) approved continuing education hours shall be accrued by each associate during each one (1) year renewal period.

(2) All hours shall be in "the practice of marriage and family therapy" as defined by KRS 335.300(4) and shall relate to the professional application of psychotherapeutic and systems theories and techniques in the delivery of services to individuals, couples, and families.

(3) Three (3) hours of the hours required by subsection (1) of this section for licensees and associates shall be accrued in the field of professional marriage and family therapy ethics.

(4) Commencing on January 1, 2017, each licensee and associate shall be required to show proof of completion of six (6) hours of continuing education in suicide assessment, treatment, and management every six (6) years beginning January 1, 2015 as required by KRS 210.366. These hours shall be in addition to the requirements set forth in subsection (1) of this section unless preapproved by the board as meeting the requirements set forth in subsection (2) of this section or meets requirements of Section 2 of this administrative regulation.

(5) Within three (3) years of initial licensure or certification, each licensee and associate[~~all mental health professionals~~] shall successfully complete a three (3) hour training that covers dynamics of domestic violence, elder abuse, neglect, and exploitation; effects of domestic violence and elder abuse, neglect, and exploitation on adult and child victims; legal remedies for protection; lethality and risk issues; model protocols for addressing domestic violence and elder abuse, neglect, and exploitation; available community resources and victim services and reporting requirements as required by KRS 194A.540.

Section 2. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the license or permit shall be directly related to the professional growth and development of marriage and family therapy practitioners and associates. Education hours shall be earned by completing any of the educational activities established in this section[~~subsection~~].

(1) Programs not requiring board review and approval. Programs from the following sources shall be determined as[~~deemed to be~~] relevant to the practice of marriage and family therapy and shall be approved without further review by the board:

(a) Programs provided or approved by the American Association for Marriage and Family Therapy (AAMFT) and its state affiliates;

(b) Academic courses as defined in 201 KAR 32:010; and

(c) Continuing education programs offered by Commission on Accreditation for Marriage and Family Therapy Education accredited institutions.

(2) Programs requiring board review and approval. Programs from the following sources shall be reviewed and may be determined to be relevant and subsequently approved by the board:

(a) Relevant programs including online study courses, manualized training, and face-to-face workshops, by other organizations, educational institutions, or other service providers approved by the board;

(b) Relevant programs or academic courses presented by the licensee. Presenters of relevant programs or academic courses may earn full continuing education credit for each contact hour of instruction, not to exceed one-half (1/2) of the continuing education renewal requirements. Credit shall not be issued for repeated instruction of the same course; and

(c) Relevant publications in a professionally recognized or juried publication. Credit shall not be granted except for those publications that were published within the one (1) year period immediately preceding the renewal date. A licensee shall earn one-half (1/2) of the continuing education hours required for a relevant publication. More than one (1) publication shall not be counted during each renewal period.

Section 3. Continuing Education Providers. (1) Any entity seeking to obtain approval of a continuing education program prior to its offering shall pay the fee as established in 201 KAR 32:030, Section 9, and submit a Continuing Education Program Provider Approval Application, as incorporated by reference in 201 KAR 32:030, Section 10, to the board at least sixty (60) days in advance of the program. The application shall include the:

(a) Type of learning activity;

(b) Subject matter;

(c) Names and qualifications of the instructors; and

(d) Number of continuing education hours offered.

(2) A continuing education activity shall be qualified for preapproval if the activity being presented:

(a) Is an organized program of learning;

(b) Pertains to subject matters that integrally relate to the practice of marriage and family therapy;

(c) Contributes to the professional competency of the licensee or associate; and

(d) Is conducted by individuals who have relevant educational training or experience.

(3) An approved continuing education sponsor is a person or organization which is approved by the board to provide more than one (1) continuing education **program[programs]** over a two (2) consecutive calendar year period of time.

(a) Any person or organization seeking to obtain approval as a continuing education sponsor shall:

1. Pay the fee **as** established in 201 KAR 32:030, Section 9; and

2. Complete the Application for Continuing Education Sponsor, **as incorporated by reference in 201 KAR 32:030, Section 10**, and submit it at least sixty (60) days in advance of offering courses. The application shall include the following:

a. Continuing education sponsor provider information;

b. Sponsor administrator information;

c. One (1) sample continuing education course that would qualify for approval under Section 1(2) of this administrative regulation. Although only one (1) course is submitted, it is understood that this course serves as an example of all courses provided[providing Kentucky];[.]

d. The sample course provided **shall[must]** include the following:

- (i) Published course or similar description;
- (ii) Complete resume of each instructor;
- (iii) Copy of the program indicating hours of education;
- (iv) **Timed[Time]** agenda, **including[include]** coffee and lunch breaks listed;
- (v) Copy of the evaluation tool to be used; **[and]**
- (vi) Official certificate from the provider. The official certificate **shall[must]** include the following statement: "KY LMFT Board granted approval for this program on _____ (date)."; **and**
- (vii) The documents submitted in this subsection **shall[must]** be kept on file for each of the programs and courses presented as board-approved continuing education hours. The board may request a copy of this information at any time; **[-]**
- e. The delivery format for which the applicant is applying;
- f. A description of how the continuing education of licensed marriage and family therapist and permitted marriage and family therapy associates support the overall goals of the provider;
- g. A description of the target audience, including education level and profession, to whom the program is directed;
- h. A statement that the applicant will provide all legally required disability accommodations to participants at live events;
- i. A statement that all live programs offered for board-approved credit will be presented in facilities compliant with all federal and state laws, including the Americans with Disabilities Act, 42 U.S.C. 12101, et seq.;
- j. A description of the process by which the applicant selects presenters for the continuing education programs;
- k. A statement of whether the provider maintains policies concerning program fee, refunds, and cancellations;
- l. A description of the organization's procedure for verifying attending, including sign-in sign-out procedures;
- m. A description of the organization's procedure for distributing certificates of completion;
- n. A description of the record-keeping process that will be utilized to maintain all materials for a period of five (5) years following each program;
- o. A description of the method by which program evaluations are obtained from participants and how the evaluation results are used for future program planning; and
- p. An attestation that the information provided in the application:
 - (i) Is complete;
 - (ii) If approved as a continuing education sponsor, the provider will comply with the terms set forth by the board;
 - (iii) Board approval will be for a period of two (2) consecutive calendar years;
 - (iv) Board approval will include all programs and courses that meet board continuing education requirements; and
 - (v) That the board has the right to audit, at any time, programs and courses to evaluate if they comply with board **administrative** regulations.
- (b) An approved continuing education sponsor shall submit to the board an annual report of the education programs offered during the year.
- (c) Notwithstanding this subsection, the board shall individually approve the following courses:
 1. The six (6) hours of board-approved continuing education courses in supervision under 201 KAR 32:035, Section 2(4);
 2. The two (2) hours of continuing education in supervision under 201 KAR 32:035, Section 2(5) needed by a non-AAMFT approved supervisor to maintain board-approved supervisor status;
 3. The one (1) hour of continuing education in Kentucky law required under 201 KAR 32:035, Section 2(6);

4. The three (3) hours of marriage and family therapy ethics required by Section 1(3)(4) of this administrative regulation; and

5. The fifteen (15) hour telehealth course required by 201 KAR 32:110, Section 3.

(d) The applicant **shall/must** designate an authorized representative to serve as the sponsor administrator.

1. The administrator is responsible for assuring:

a. That the content of all programs offering continuing education hours meet the qualifications of Section 1(2) of this administrative regulation; and

b. That the programs are conducted by individuals who have relevant education training or experience.

2. The administrator shall serve as the primary contact person with the board concerning sponsor program matters.

Section 4. Responsibilities and Reporting Requirements of Licensees and Associates. (1) Licensees and associates shall:

(a) Be responsible for obtaining required continuing education hours;

(b) Identify personal continuing education needs;

(c) Take the initiative in seeking continuing professional education activities to meet these needs; and

(d) Seek ways to integrate new knowledge, skills, and attitudes.

(2) Each person holding a license or permit shall:

(a) Select approved activities by which to earn continuing education hours;

(b) If seeking approval for continuing education from a program not already approved pursuant to Section 2(2) of this administrative regulation and not exempted from requiring board approval pursuant to Section 2(1) of this administrative regulation, submit an Application ***for Continuing Education Program Approval Individual, as incorporated by reference in 201 KAR 32:030, Section 10*** to the board for consideration. The application shall include the:

1. Agenda that is detailed, timed, and includes topics and presenters;

2. Presenter's biography, including education;

3. Credentials of all presenters;

4. All presenters' experience related to topic;

5. Description of training; and

6. Objectives and goals;

(c) Maintain records of continuing education hours. Each licensee and associate shall maintain, for a period of one (1) year from the date of renewal, all documentation verifying successful completion of continuing education hours. During each renewal period, up to fifteen (15) percent of all licensees and associates shall be required by the board to furnish documentation of the completion of the appropriate number of continuing education hours for the current renewal period. Verification of continuing education hours shall not otherwise be reported to the board;

(d) Document attendance and participation in a continuing education activity in the form of official documents including transcripts, certificates, or affidavits signed by instructors. The type of documentation required shall vary depending on the specific activity submitted to the board for approval; and

(e) Fully comply with the provisions of this administrative regulation. Failure to comply shall constitute a violation of KRS 335.340(7) and may result in the refusal to renew, suspension, or revocation of the license or permit.

Section 5. Carry-over of Continuing Education Hours, Prohibited. There shall not be a carry-over of continuing education hours earned in excess of those required under Section 1 of this administrative regulation into the immediately following renewal period.

Section 6. Board to Approve Continuing Education Hours; Appeal Upon Approval Denial. In the event of denial, in whole or part, of any Application for ~~[approval of]~~ **Continuing Education Program Approval Individual, as incorporated by reference in 201 KAR 32:030, Section 10 [hours]**, the licensee or associate shall have the right to request reconsideration by the board of its decision. The request shall be in writing and shall be received by the board within thirty (30) days after the date of the board's decision denying approval of continuing education hours.

Section 7. Waiver or Extensions of Continuing Education. (1) The board may, in individual cases involving medical disability, illness, or undue hardship, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the same or make the required reports.

(2) A request for waiver or extension shall be in writing and submitted within the renewal grace period.

(3) A written request for waiver or extension of time involving medical disability or illness shall be submitted by the licensee or associate accompanied by a verifying document signed by a licensed physician, a physician's assistant, or a nurse practitioner, and shall be received by the board within the grace period.

(4) A written request for waiver or extension of time involving undue hardship shall be submitted by the licensee or associate accompanied by a verifying document signed by the licensee or associate, and shall be received by the board within the grace period.

(5) A waiver of the minimum continuing education requirements or an extension of time within which to fulfill the continuing education requirements may be granted by the board for a period of time not to exceed one (1) calendar year.

(6) If the medical disability, illness, or undue hardship upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the licensee or associate shall reapply for the waiver or extension in writing prior to the expiration of the previous extension or waiver.

Section 8. Incorporation by Reference. (1) [The following material is incorporated by reference:

~~**(a) "Application for Continuing Education Sponsor", May[January] 2021, is incorporated by reference.**~~

~~**(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Marriage and Family Therapists, 500 Mero Street, 2SC32, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.**~~

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, Kentucky Public Protection Cabinet, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone 502-782-0562, fax 502-564-4818, KevinR.Winstead@ky.gov.



KENTUCKY BOARD OF LICENSURE FOR MARRIAGE AND FAMILY THERAPISTS

P.O. Box 1360, Frankfort, KY 40602 ~ 500 Mero Street 2 SC 32, Frankfort, KY 40601
Phone (502) 782-8809, Fax (502) 564-4818 ~ <http://mft.ky.gov>

CONTINUING EDUCATION PROGRAM PROVIDER APPROVAL APPLICATION

PURSUANT TO 201 KAR 32:030, Section 9.

(1) There shall be a nonrefundable fee of \$100 for a single continuing education workshop offered an unlimited number of times in a calendar year, January 1 to December 31.

(2) There shall be a nonrefundable fee of \$300 for a provider designated as an approved sponsor for continuing education and that is providing more than one (1) continuing education program for two (2) consecutive calendar years, January 1 to December 31.

Please note that approval expires at the end of the calendar year.

CONTACT INFORMATION

Provider			Name of Primary Contact
Street Address	City	State	Zip Code
Phone Number			Email address

PROGRAM INFORMATION

Program Title: _____

of CE Hours being requested: _____

Program Site: _____

Program Date: _____

Method of Presentation: _____

Please Attach Documentation of the Following to This Application:

- Published Course or seminar description: Yes No
- Complete resume' of each instructor(s): Yes No
- Copy of the program indicating hours of education: Yes No
- Timed agenda including coffee and lunch breaks listed: Yes No
- Copy of evaluation tool to be used: Yes No
- Official certificate from the provider: Yes No

The official certificate must include the following statement:
"KY LMFT Board granted approval for this program on ____ (date.)"

Programs requiring board review and approval shall be submitted at least sixty (60) days prior to the beginning date of the program.

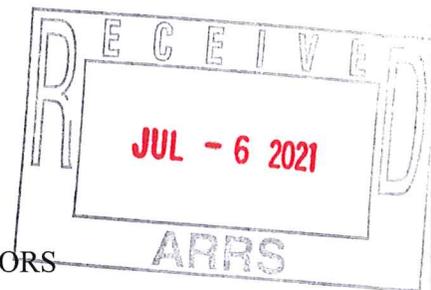
Applicant's Signature _____ Date _____

July 2021





KENTUCKY BOARD OF ALCOHOL & DRUG COUNSELORS



Andy Beshear
Governor

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<http://adc.ky.gov>

July 6, 2021

(Via email to RegsCompiler@LRC.KY.GOV)
Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: **201 KAR 35:010** Definitions for 201 KAR Chapter 35.
201 KAR 35:020 Fees.
201 KAR 35:040 Continuing education requirements.
201 KAR 35:050 Curriculum of study.
201 KAR 35:055 Temporary registration or certification.
201 KAR 35:070 Supervision experience.
201 KAR 35:075 Substitution for work experience for an applicant for certification as an alcohol and drug counselor.
201 KAR 35:080 Voluntary inactive and retired status.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080, the Kentucky Board of Alcohol and Drug Counselors proposes the attached amendments to 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080.

Sincerely,

Kevin R. Winstead, Acting Commissioner
Department of Professional Licensing
Kentucky Public Protection Cabinet
500 Mero Street, 264SC, Frankfort, KY 40601
502-782-8805 (office) | KevinR.Winstead@ky.gov

Final 7-2-2021

SUGGESTED SUBSTITUTE TO AAC VERSION – *ORDINARY ONLY*

BOARDS AND COMMISSIONS
Board of Alcohol and Drug Counselors

201 KAR 35:010. Definitions for 201 KAR Chapter 35.

RELATES TO: KRS 309.080, 309.0805, 309.081, 309.0813, 309.084, 309.085, 309.086, 309.087, 309.089, **309.0830, 309.0834**

STATUTORY AUTHORITY: KRS 309.0813(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813 requires the Kentucky Board of Alcohol and Drug Counselors to promulgate administrative regulations for the administration and enforcement of KRS 309.080 to 309.089 and for establishing requirements for alcohol and drug counselors, certified clinical supervisors, and peer support specialists. This administrative regulation establishes definitions of terms used by the board in administrative regulations pertaining to the administration and enforcement of KRS 309.080 to 309.089, credentialing of alcohol and drug counselors, certified clinical supervisors, and peer support specialists.

Section 1. (1) "Academic course" means a course that is offered by a postsecondary institution accredited by a recognized accreditation agency and that is:

(a) An alcohol and drug counseling course, designated by title or content; or

(b) An academic course, relevant to alcohol and drug counseling.

(2) "Applicant" means an individual who has applied for temporary registration, registration, temporary certification, certification, or licensure in accordance with KRS 309.084 or a credential holder renewing a[his] credential[application] in accordance with KRS 309.085.

(3) "Approved" means recognized by the Kentucky Board of Alcohol and Drug Counselors.

(4) "Board" is defined by KRS 309.080(1).

(5) "Certified alcohol and drug counselor associate I" is defined by KRS 309.080(2).

(6) "Certified alcohol and drug counselor associate II" is defined by KRS 309.080(3).

(7) "Certified alcohol and drug counselor" is defined by KRS 309.080(4).

(8) "Certified clinical supervisor" is defined by KRS 309.080(5).

~~(9)(8)~~ "Chair" means the chairperson or vice-chairperson of the board.

~~(10)(9)(7)~~ "Charge" means a specific allegation contained in a formal complaint, as established in subsection ~~(15)(14)(12)~~ of this section, issued by the board alleging a violation of a specified provision of KRS Chapter 309, the administrative regulations promulgated thereunder, or another state or federal statute or regulation.

~~(11)(10)(8)~~ "Classroom hour" means an academic hour from an accredited institution or continuing education hour.

~~(12)(11)(9)~~ "Client" means:

~~(a)~~ An individual, family, or group who directly receives services from an alcohol and drug counselor or peer support specialist;

~~(b)~~ A corporate entity or other organization if the contract is to provide an alcohol and drug counselor or peer support specialist service of benefit directly to the corporate entity or organization; or

~~(c)~~ A legal guardian who is responsible for making decisions relative to the provision of services for a minor or legally incompetent adult.

~~(13)(12)(10)~~ "Clinical supervision" means a disciplined, tutorial process wherein principles are transformed into practical skills, with four (4) overlapping foci: administrative, evaluative,

clinical, and supportive.

(14)~~(13)~~~~(11)~~ "Clinical supervisor" means:

(a) A certified alcohol and drug counselor who:

1. Has at least two (2) years of ~~post-certification~~~~[post-credential]~~ experience;

2.~~[and]~~ Has attended the board-sponsored supervision training;

3. ~~[who]~~ Provides supervision; and

4. ~~Has a~~~~whose]~~ credential ~~that~~ is currently in good standing with the board;~~;~~~~]~~ or

(b) A licensed clinical alcohol and drug counselor who:

1. a. Has at least twelve (12) months of post-licensure experience; or

b. Has attended the board-sponsored supervision training;

2. Who provides supervision; and

3. ~~Has a~~~~whose]~~ credential ~~that~~ is currently in good standing with the board.

(15)~~(14)~~~~(12)~~ "Complaint" means a written allegation of misconduct by a credentialed individual or another person, alleging a violation of:

(a) KRS 309.080 to 309.089~~[Chapter 309]~~;

(b) Administrative regulations promulgated in accordance with KRS 309.080 to 309.089~~[Chapter 309]~~;

(c) Another state or federal statute or regulation; or

(d) A combination of paragraphs (a), (b), or (c) of this subsection.

(16)~~(15)~~~~(13)~~ "Complaint screening committee" means a committee that reviews complaints, investigates reports, participates in informal proceedings to resolve a formal complaint, and consists of up to:

(a) ~~Up to~~ ~~three~~ ~~(3)~~~~[two~~~~(2)]~~ board members appointed by the chair~~;~~~~and~~

(b) ~~If appointed, the executive director of the Division of Occupations and Professions, or another staff person, to be a non-voting member who is available to the committee for assistance].~~

(17)~~(16)~~~~(14)~~ "Continuing education hour" means fifty (50) clock minutes of participating in a continuing education experience.

(18)~~(17)~~~~(15)~~ "Credential holder" means a person who has a credential issued by the board pursuant to KRS 309.080 to 309.089~~[is defined by KRS 309.080(3)]~~.

(19)~~(18)~~~~(16)~~ "Disciplinary action" means to:

(a) Revoke, suspend, place on probation, or restrict the credential holder; and

(b) Publicly reprimand, publicly admonish, or fine.

(20)~~(19)~~~~(17)~~ "Education~~[Educational]~~ program" means an organized learning experience:

(a) Planned and evaluated to meet behavioral objectives; and

(b) Presented in one (1) session or in a series.

(21)~~(20)~~~~(18)~~ "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a ~~resolution~~~~[dispensation]~~ of a matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(22)~~(21)~~~~(19)~~ "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by ~~[the Attorney General or]~~ the board.

(23) "Licensed alcohol and drug counselor" is defined by KRS 309.080(7).

(24)~~(22)~~~~(20)~~ "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(8)~~(6)(4)]~~.

(25)~~(23)~~~~(21)~~ "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(9)~~(7)(5)]~~.

(26)~~(24)~~~~(22)~~ "Licensee" is defined by KRS 309.080(10)~~(8)(6)]~~.

(27)~~(25)~~~~(23)~~ "Provider" means an organization approved by the Kentucky Board of Alcohol and Drug Counselors for providing continuing education programs.

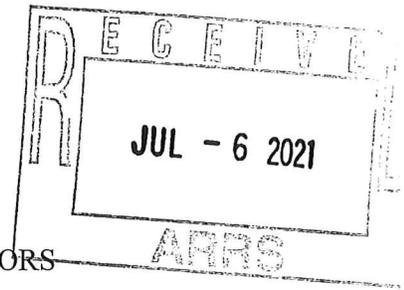
(28)~~(26)~~~~(24)~~ "Registered alcohol and drug peer support specialist" is defined by KRS 309.080(12)~~(10)(8)]~~.

~~(29)~~~~(27)~~~~(25)~~ "Registrant" is defined by KRS 309.080~~(13)~~~~(119)~~.

~~(30)~~~~(28)~~~~(26)~~ "Relevant" means having content applicable to the practice of alcohol and drug counseling in accordance with the requirements of 201 KAR 35:040, Section 3(2).

~~(31)~~~~(29)~~~~(27)~~ "Work experience" means the hours spent performing the services, tasks, and reports necessary for providing counseling, intervention, or support services to a person with a substance use disorder or that person's significant others.

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KENTUCKY BOARD OF ALCOHOL & DRUG COUNSELORS

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SUGGESTED SUBSTITUTE TO AAC VERSION – ORDINARY ONLY

BOARDS AND COMMISSIONS
Board of Alcohol and Drug Counselors

201 KAR 35:020. Fees.

RELATES TO: KRS 309.083, 309.0831, 309.0832, 309.0833, 309.084, 309.0841, 309.0842, 309.085(1)(a), 309.0830, 309.0834

STATUTORY AUTHORITY: KRS 309.0813(1), (4), (5), (12), 309.085(2)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 309.0813(1) requires the Kentucky Board of Alcohol and Drug Counselors to promulgate administrative regulations for the administration and enforcement of KRS 309.080 to 309.089.** KRS 309.0813(4) requires the board to promulgate an administrative regulation governing the administration and grading of the written examination, which applicants shall be required to successfully complete. KRS 309.0813(12) requires the board to promulgate administrative regulations establishing initial registration, certification, and licensure fees and renewal fees. This administrative regulation establishes those fees **and prohibits the use of the credential titles by those whose credentials are canceled.**

Section 1. Application Fees. (1) The application fee for board review of an application for a licensed clinical alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, **licensed alcohol and drug counselor,** certified alcohol and drug counselor, **certified alcohol and drug counselor associate II, certified alcohol and drug counselor associate I,** or registered alcohol and drug peer support specialist, **Application,** KBADC Form 1, shall be fifty (50) dollars. **The application fee for a certified clinical supervisor, Application for Certified Clinical Supervisor, KBADC Form 23, shall be fifty (50) dollars.**

(2) The application fee shall be nonrefundable.

(3) An application shall lapse one (1) year from the date it is filed with the board office.

(4)~~(a)~~ If an approved applicant applies one (1) or more times after the original application lapses, the applicant shall comply with the requirements of this subsection.

~~(a)[4-]~~ The applicant shall successfully complete the examination required by the board within one (1) year~~[two (2) years]~~ from the date the original application is filed.

~~(b)[2-]~~ If the applicant does not successfully complete the examination within the time period required by ~~paragraph~~**subparagraph** ~~(a)[4-]~~ of this ~~subsection~~**paragraph**, the applicant shall update and refile the application prior to sitting for the examination again.[]

~~(b) The fee for refiling the application form shall be twenty (20) dollars.~~]

Section 2. Comprehensive Examination Fees. (1) An applicant for registration as an alcohol and drug peer support specialist shall pay an examination fee of \$150. The fee for retaking the comprehensive examination for registration shall be \$150.

(2) An applicant for certification **as a certified alcohol and drug counselor, and an applicant for licensed alcohol and drug counselor** shall pay an examination fee of \$200. The fee for retaking the comprehensive examination for certification shall be \$200.

(3) An applicant for **licensed clinical alcohol and drug counselor and licensed clinical alcohol and drug counselor associate**~~[licensure]~~ shall pay an examination fee of \$200. The fee for retaking the comprehensive examination for licensure shall be \$200.

(4) An applicant for certified clinical supervisor shall pay an examination fee of \$200. The fee for retaking the comprehensive examination for licensure shall be \$200.

Section 3. Credentialing Fees. (1)~~[(a)]~~ The registration fee for an alcohol and drug peer support specialist shall be \$100.

~~(2)~~~~[(b)]~~ The~~[certification]~~ fee for a certified alcohol and drug counselor **and licensed alcohol and drug counselor** shall be \$200.

~~(3)~~~~[(e)]~~ The licensure fee for a licensed clinical alcohol and drug counselor or licensed clinical alcohol and drug counselor associate shall be \$300.

(4) The certification fee for a certified clinical supervisor shall be \$200.

~~(2) If the applicant successfully completes all requirements for registration, certification, or licensure, the fee established in subsection (1) of this section shall cover credentialing for the initial three (3) year period.]~~

Section 4. Renewal Fees and Penalties. (1)(a) A registration, certificate, or license not renewed within ninety (90) days after the holder's renewal date shall be deemed cancelled in accordance with KRS 309.085(2).

(b) A person holding a cancelled registration shall not use the title "registered alcohol and drug peer support specialist," or hold himself or herself out as a registered alcohol and drug peer support specialist, or engage in the practice of alcohol and drug peer support services.

(c) A person holding a canceled certificate shall not:

1. ~~Use~~~~[use]~~ the title "certified alcohol and drug counselor," ~~[or]~~ hold himself or herself out as a certified alcohol and drug counselor, or engage in the practice of alcohol and drug counseling.

2. Use the title "temporary certified alcohol and drug counselor," hold himself or herself out as a temporary alcohol and drug counselor, or engage in the practice of alcohol and drug counseling.

3. Use the title "licensed alcohol and drug counselor", hold himself or herself out as a licensed alcohol and drug counselor, or engage in the practice of alcohol and drug counseling.

~~4.~~~~[3.]~~ Use the title "certified alcohol and drug counselor associate I," or hold himself or herself out as a certified alcohol and drug counselor associate I, or engage in the practice of alcohol and drug counseling.

~~5.~~~~[4.]~~ Use the title "certified alcohol and drug counselor associate II," or hold himself or herself out as a certified alcohol and drug counselor associate II, or engage in the practice of alcohol and drug counseling.

6. Use the title "certified clinical supervisor", hold himself or herself out as a certified clinical supervisor, or otherwise represent himself or herself as a certified clinical supervisor.

(d) A person holding a canceled license shall not use the title "licensed clinical alcohol and drug counselor," or hold himself or herself out as a licensed clinical alcohol and drug counselor, or engage in the practice of alcohol and drug counseling.

(e) A person holding a canceled license as a licensed clinical alcohol and drug counselor associate shall not use the title "licensed clinical alcohol and drug counselor associate," or hold himself or herself out as a licensed clinical alcohol and drug counselor associate, or engage in the practice of alcohol and drug counseling.

(f) The certified clinical supervisor status of a person holding a canceled certified alcohol and drug counselor, licensed alcohol and drug counselor, or licensed clinical alcohol and drug counselor credential shall be revoked at the time of cancellation of the certified alcohol and drug counselor, licensed alcohol and drug counselor, or licensed clinical alcohol and drug counselor credential.

(2) The fees and penalties established in this subsection shall be paid in connection with registration, certification, or licensure renewals.

(a) The renewal fee for registration as a temporary registered alcohol and drug peer support

specialist shall be fifty (50) dollars for a two (2) year period, and shall accompany the Application for Renewal, KBADC Form 16.

(b) The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$100 for registration as a temporary registered alcohol and drug peer support specialist for a two (2) year period.

(c) The renewal fee for registration as a registered alcohol and drug peer support specialist shall be \$100 for a three (3) year period, and shall accompany the Application for Renewal, KBADC Form 16.

(d)~~(b)~~ The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$150 for registration as a registered alcohol and drug peer support specialist for a three (3) year period.

(e)~~(c)~~ The renewal fee for certification as a certified alcohol and drug counselor associate I, a certified alcohol and drug counselor associate II, or a temporary certified alcohol and drug counselor shall be \$100 for a two (2) year period, and shall accompany the Application for Renewal, **KBADC Form 16.**

(f) The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$150 for certification as a certified alcohol and drug counselor associate I, a certified alcohol and drug counselor associate II, or a temporary certified alcohol and drug counselor for a two (2) year period.

(g) The renewal fee for certification as a certified alcohol and drug counselor shall be \$200 for a three (3) year period, and shall accompany the ~~[Form 16]~~ Application for Renewal, **KBADC Form 16.**

(h)~~(d)~~ The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$250 for certification as a certified alcohol and drug counselor for a three (3) year period.

(i) The renewal fee for licensure as a licensed alcohol and drug counselor shall be \$200 for a three (3) year period, and shall accompany the ~~[Form 16,]~~ Application for Renewal, KBADC Form 16.

(j) The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$250 for licensure as a licensed alcohol and drug counselor for a three (3) year period.

(k)~~(f)~~~~(e)~~ The renewal fee for a licensed clinical alcohol and drug counselor, and a licensed clinical alcohol and drug counselor associate~~[licensure]~~ shall be \$300 for a three (3) year period, and shall accompany the Application for Renewal, **KBADC Form 16.**

(l)~~(g)~~~~(f)~~ The late renewal fee for the ninety (90) day grace period, as well as licensure for a three (3) year period, shall be a:

1. \$300 fee; and
2. Penalty fee of fifty (50) dollars.

3. The renewal fee for certification as a certified clinical supervisor shall be \$200 for a three (3) year period, and shall accompany the ~~[Form 16,]~~ Application for Renewal, KBADC Form 16.

4. The late renewal fee, including penalty, for the ninety (90) day grace period shall be \$250 for certification as a certified clinical supervisor for a three (3) year period.

Section 5. Reinstatement of a Canceled Registration, Certificate, or Licensure. (1) A canceled registration may be reinstated within one (1) year of the anniversary date of issue of renewal by:

- (a) Submitting a completed Application for Reinstatement, **KBADC Form 17;**
- (b) Proof of completion of continuing education in accordance with 201 KAR 35:040~~[-and of ten (10) hours of continuing education during the one (1) year period]; and~~
- (c) Payment of a \$200 reinstatement fee for registration for a three (3) year period.

(2) A canceled credential~~[certificate]~~ of a licensed alcohol and drug counselor, certified alcohol and drug counselor, certified ~~alcohol/drug] and drug~~[alcohol]~~ counselor associate II,~~

and certified alcohol and drug counselor associate I may be reinstated within one (1) year of the anniversary date of issue of renewal by:

- (a) Submitting a completed Application for Reinstatement, ***KBADC Form 17*** ;
 - (b) Proof of completion of continuing education in accordance with 201 KAR 35:040 [~~and of twenty (20) hours of continuing education during the one (1) year period~~]; and
 - (c) Payment of a \$300 reinstatement fee, for certification for a three (3) year period.
- (3) A canceled license may be reinstated within one (1) year of the anniversary date of issue of renewal by:

- (a) Submitting a completed Application for Reinstatement, ***KBADC Form 17***;
- (b) Proof of completion of continuing education in accordance with 201 KAR 35:040 [~~and of twenty (20) hours of continuing education during the one (1) year period~~]; and
- (c) Payment for licensure for a three (3) year period, which shall be a:
 - 1. \$300 fee; and
 - 2. Penalty fee of \$100.

(4) A canceled credential of a certified clinical supervisor may be reinstated within one (1) year of the anniversary date of issue of renewal by:

- (a) Submitting a completed Application for Reinstatement, *KBADC Form 17*;**
 - (b) Proof of completion of continuing education in accordance with 201 KAR 35:040;**
- and**
- (c) Payment of a \$100 reinstatement fee, for certification for a three (3) year period.**

Section 6. Duplicate Credential ~~fee~~ [~~and ID Card Fees~~]. [~~(1)~~] The fee for a duplicate credential shall be twenty (20) dollars. [

~~(2) The fee for a duplicate ID card shall be ten (10) dollars.]~~

Section 7. Inactive Status Fees. (1) The enrollment fee for voluntarily placing a registration, certificate, or license in inactive status in accordance with 201 KAR 35:080 shall be fifty (50) dollars.

(2) The annual renewal fee for a registration, certificate, or license enrolled in inactive status shall be twenty-five (25) dollars based on the renewal date.

(3)(a) The fee for reactivation of a registration shall be \$100 for a three (3) year period commencing on the date the board approves the **written request[application]** for reactivation, **as required by 201 KAR 35:080, Section 4.**

(b) **The fee for reactivation of a registration as a [registered] temporary registered alcohol and drug peer support specialist, certificate as a temporary certified alcohol and drug counselor, certificate as a certified alcohol and drug counselor associate I, and certificate as a certified alcohol and drug counselor associate II shall be fifty (50) dollars for a two (2) year period commencing on the date the board approves the written request[application] for reactivation.**

(c) **The fee for reactivation of a certificate as a licensed alcohol and drug counselor or certified alcohol and drug counselor shall be \$200 for a three (3) year period commencing on the date the board approves the written request[application] for reactivation.**

(d)[~~(e)~~] **The fee for reactivation of a license shall be \$300 for a three (3) year period commencing on the date the board approves the written request[application] for reactivation.**

(e) The fee for reactivation of a certificate as a certified clinical supervisor that was held at the time the primary credential went into inactive or retired status shall be/is] included in the fee for reactivation of the primary credential.

Section 8. Continuing Education Fees. (1) For purposes of this administrative regulation, a continuing education sponsor shall be an individual or entity that provides a program of continuing education to credential holders that has been reviewed and approved by the board to meet the continuing education requirements set forth in 201 KAR 35:040.

(2) Approvals may consist of a single workshop or a program of courses and shall be effective for one (1) year from the date of approval.

(3) The fee for approval of an application for a single program provider shall be fifty (50) dollars.

(4) The fee for approval of an application for a continuing education sponsor providing a program of courses shall be \$250.

(5) Continuing education sponsors who have received approval for their program of courses may apply for renewal of the approval in accordance with 201 KAR 35:040 and shall pay an annual renewal fee of \$150.

(6)(a) The fee for review of an application for a substantial change in curriculum of an approved program shall be fifty (50) dollars.

(b) A substantial change shall be considered as the addition of a workshop or course to a pre-approved program, or changes to the content of a pre-approved workshop or program which is in excess of twenty (20) percent.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "KBADC Form 1, Application", ~~June~~~~March~~ 2021~~[June-2015]~~;

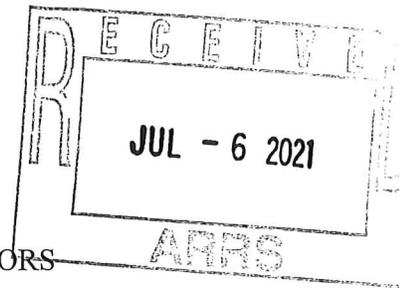
(b) "KBADC Form 16, Application for Renewal", ~~March 2021~~~~[June-2015]~~; ~~[and]~~

(c) "KBADC Form 17, Application for Reinstatement", ~~March 2021~~~~[June-2015]~~; ~~and.]~~

(d) "KBADC Form 23, Application for Certified Clinical Supervisor", June 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Alcohol and Drug Counselors, 500 Mero St, 2 SC 32~~[914 Leawood Drive]~~, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m. The board's Web site address is: <https://adc.ky.gov>.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone (502) 782-0562, fax (502) 564-4818, email KevinR.Winstead@ky.gov.



KENTUCKY BOARD OF ALCOHOL & DRUG COUNSELORS

Andy Beshear
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Sincerely,

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BOARDS AND COMMISSIONS
Board of Alcohol and Drug Counselors

201 KAR 35:040. Continuing education requirements.

RELATES TO: KRS 309.085(1)(b), **309.0830, 309.0834**

STATUTORY AUTHORITY: KRS 309.0813(2), 309.085(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(2) and 309.085(1)(b) **re-
quire[authorize]** the Board of Alcohol and Drug Counselors to promulgate administrative regulations establishing continuing education requirements. This administrative regulation establishes the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses **for persons credentialed by the board.**

Section 1. Basic Continuing Education Requirements. (1)(a) A minimum of ten (10) continuing education hours each year shall be accrued by each person holding a registration as an alcohol and drug peer support specialist.

(b) **A minimum of thirty (30) continuing education hours, including at least six (6) continuing education hours in ethics, each year shall be accrued by each person holding a certificate as a certified alcohol and drug counselor associate I or[and] a certified alcohol and drug counselor associate II.**

(c) A minimum of sixty (60) continuing education hours shall be accrued by each person holding a **credential[certificate]** as a **licensed alcohol and drug counselor or** certified alcohol and drug counselor during the three (3) year certification period for renewal with at least three (3) continuing education hours in ethics.

(d)[(e)] A minimum of sixty (60) continuing education hours shall be accrued by each person holding a license as a licensed clinical alcohol and drug counselor during the three (3) year licensure period for renewal with at least three (3) continuing education hours in ethics.

(e)[(d)] A minimum of twenty (20) continuing education hours each year shall be accrued by each person holding a license as a licensed clinical alcohol and drug counselor associate. A licensed clinical alcohol and drug counselor associate shall obtain at least three (3) continuing education hours in ethics during the renewal cycle.

(2) A minimum of nine (9) continuing education hours shall be accrued by each person holding a certificate as a certified clinical supervisor during the three (3) year licensure period for renewal, at least three (3) hours of which shall be the board sponsored clinical supervision training. These hours may[can] be included in the continuing education hours required for the certified alcohol and drug counselor, licensed alcohol and drug counselor, or licensed clinical alcohol and drug counselor credential held by the certified clinical supervisor.

(3)[(2)] All continuing education hours shall be relevant to the field of alcohol and drug counseling.

(4)[(3)] A credential holder shall determine prior to attending a specific continuing education program that the program:

(a) Has been approved by the board; or

(b) Is offered or sponsored by an organization approved by the board to provide continuing education programs.

(5)[(4)] If the specific continuing education program is not preapproved as established in subsection **(4)[(3)]** of this section, the **credential[certificate]** holder may apply for board approval

by providing the information required by Section 4 of this administrative regulation.

~~6~~⁵ A person credentialed by the board~~[credential holder]~~ shall complete a minimum of six (6) hours of continuing education in suicide assessment, treatment, and management as required by KRS 210.366. The suicide assessment, treatment, and management continuing education course shall be approved by the board, be provided by an entity identified in Section 2(4)(b) of this administrative regulation, or be approved by one (1) of the following boards:

- (a) Kentucky Board of Social Work;
- (b) Kentucky Board of Licensure of Marriage and Family Therapists;
- (c) Kentucky Board of Licensed Professional Counselors;
- (d) Kentucky Board of Licensure for Pastoral Counselors;
- (e) Kentucky Board of Examiners of Psychology; or
- (f) Kentucky Board of Licensure for Occupational Therapy.

Section 2. Methods of Acquiring Continuing Education Hours. (1) Continuing education hours applicable to the renewal of the credential shall be directly related to the professional growth and development of a credential holder.

(2) Continuing education hours may be earned by:

- (a) Attending a continuing education program that has prior approval by the board;
- (b) The completion of appropriate academic coursework; or
- (c) Other alternative methods approved by the board in accordance with subsection (6) of this section.

(3) At least fifty (50) percent of the required continuing education hours for a credential holder shall be earned through live synchronous or~~[;]~~ face-to-face~~[;]~~ continuing education presentations.

(4) Attendance at continuing education programs automatically approved by the board.

(a) A program relevant to the practice of alcohol and drug counseling that is provided, approved, or sponsored by any of the providers listed in paragraph (b) of this subsection shall be:

1. Approved without further review; and
2. Exempt from the program fee established in 201 KAR 35:020, Section 8.

(b) The provisions of this subsection shall apply to the following providers:

1. The National Association of Addiction Professionals (NAADAC) and its member boards;
2. The International Certification and Reciprocity Consortium (ICRC);
3. The Kentucky Cabinet for Health and Family Services, Division of Mental Health and Substance Abuse and its subcontractors;
4. Community Mental Health Centers;
5. The Kentucky School of Alcohol and Drug Studies;
- 6~~[5]~~. An Addiction Technology Transfer Center (ATTC);
- 7~~[6]~~. State or United States Regional Addiction Training Institute;
- 8~~[7]~~. Clinical Applications of the Principles on Treatment of Addictions and Substance Abuse (CAPTASA); or
- 9~~[8]~~. National Conference on Addiction Disorders (NCAD).

(5)(a) Academic coursework. An academic course, as defined in 201 KAR 35:010, Section 1(1), shall not require board review or approval.

(b) A general education course, or elective designated to meet academic degree requirements, shall be acceptable for continuing education credit if it is relevant to the practice of alcohol and drug counseling.

(c) Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equaling fifteen (15) continuing education hours.

(6) Alternative methods for obtaining continuing education hours; programs requiring board review and approval. The following activities shall be reviewed by the board to determine whether or not the activity complies with the requirements of Section 3(2) of this administrative

regulation:

(a) 1. A program, including a home study course and in-service training provided by an organization or education institution not listed in subsection (4)(b) of this section; or

2. A program or academic course presented by the credential holder, who shall earn two (2) continuing education hours for each contact hour of instruction, unless it is repeated instruction of the same course; or

(b) A relevant publication in a professionally recognized or juried publication authored by the credential holder, who shall earn continuing hours as follows:

1. Five (5) continuing education hours for each published abstract or book review in a refereed journal;

2. Ten (10) continuing education hours for each book chapter or monograph;

3. Fifteen (15) continuing education hours for each published article in a refereed journal; and

4. Twenty (20) continuing education hours for each published book.

Section 3. Procedures for Preapproval of Continuing Education Programs. (1) An applicant seeking to obtain approval of a continuing education program prior to its offering shall apply to the board at least thirty (30) days in advance of the commencement of the program, and shall provide the information required in Section 4 of this administrative regulation.

(2) A continuing education activity shall be qualified for approval if the activity:

(a) Is an organized program of learning;

(b) Pertains to subject matter relating to alcohol and drug counseling;

(c) Enhances the professional competence of the credential holder by:

1. Refreshing knowledge and skills; or

2. Educating on a new topic or subject; and

(d) Is conducted by a competent instructor, as documented by appropriate academic training, professional licensure or certification, or professionally recognized experience.

(3)(a) The board may monitor or review a continuing education program approved by the board, in accordance with this section.

(b) Upon evidence of significant variation in the program presented from the program approved, the board shall withdraw approval of the hours granted to the program.

Section 4. Subsequent Approval of Continuing Education Programs. (1) A course that has not been preapproved by the board may be used for continuing education if approval is subsequently secured from the board.

(2) The following information shall be submitted for board review of a program:

(a) A published course or seminar description;

(b) The name and qualifications of the instructor;

(c) A copy of the program agenda indicating hours of education;

(d) Number of continuing education hours requested;

(e) Official certificate of completion or college transcript from the sponsoring agency or college; and

(f) Continuing Education Program Application for continuing education credits approval.

Section 5. Application for Approved Sponsor. (1) A company, individual, or association that wishes to be designated as an approved sponsor of continuing education shall complete a Continuing Education Sponsor Application, and pay the provider fee established in 201 KAR 35:020, Section 8.

(2) An approved sponsor of continuing education shall be allowed to advertise the program as preapproved to meet the continuing education requirements for credential renewal.

(3)(a) Approval shall be for one (1) year from date of approval unless substantial course

changes occur.

(b) For purposes of this section, a substantial course change shall be a change in the curriculum in excess of twenty (20) percent.

Section 6. Responsibilities and Reporting Requirements of Credential Holder; Audit. (1)(a) During the renewal period, the board shall review at least fifteen (15) percent of all credential holders' documentation supporting the completion of the appropriate number of continuing education hours through a random audit process.

(b) Copies of supporting documentation submitted to the board shall be shredded and shall not be returned to the certificate holder upon completion of the audit process.

(c) Verification of continuing education hours shall not otherwise be reported to the board.

(2) A credential holder shall:

(a) Be responsible for obtaining the required continuing education hours;

(b) Identify personal continuing education needs and seek activities that meets those needs;

(c) Seek ways to integrate new knowledge, skills, and activities;

(d) Select approved activities by which to earn continuing education hours;

(e) Submit to the board, if applicable, a request for approval for continuing education activities not approved as established in Section 3 of this administrative regulation;

(f) Document attendance, participation in, and successful completion of continuing education activity; and

(g) Maintain records of continuing education hours for five (5) years from the date of the offering of the continuing education activity.

(3) The following items may be used to document continuing education activity:

(a) Transcript;

(b) Certificate;

(c) Affidavit signed by the instructor;

(d) Receipt for the fee paid to the sponsor; or

(e) Written summary of experiences that are not formally or officially documented otherwise.

(4) Failure to comply with this administrative regulation shall constitute a violation of KRS 309.085(1)(b) and shall result in board:

(a) Refusal to renew credential;

(b) Suspension of credential; or

(c) Revocation of credential.

Section 7. Carryover of Continuing Education Hours Prohibited. Continuing education hours earned in excess of those required pursuant to Section 1 of this administrative regulation shall not be carried forward.

Section 8. Waiver or Extensions of Continuing Education. (1) On application, the board may grant a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

(a) Medical disability or serious injury of the credential holder;

(b) Serious illness of the credential holder or of an immediate family member; or

(c) Death or serious injury of an immediate family member.

(2) A written request for waiver or extension of time involving medical disability or illness shall be:

(a) Submitted by the credential[~~certificate~~] holder; and

(b) Accompanied by a verifying document signed by a licensed physician or an advanced practice registered nurse.

(3) A waiver of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the credential holder shall reapply for the waiver or extension.

Section 9. Continuing Education Requirements for Reinstatement or Reactivation of a Credential. (1) A person requesting reinstatement of licensure, or of credentialing~~[certification]~~ as a licensed alcohol and drug counselor or certified alcohol and drug counselor ~~[or licensure]~~ shall:

(a) Submit evidence of receiving sixty (60) hours of continuing education within the three (3) year period immediately preceding the date that reinstatement is requested; or

(b) Obtain thirty (30)~~[sixty (60)]~~ hours of continuing education within six (6) months of reinstatement of licensure, or of certification as a certified alcohol and drug counselor ~~[or licensure]~~.

(2) A person requesting reinstatement of certification as a certified clinical supervisor shall attend three (3) hours of board sponsored clinical supervision training within one (1) year immediately preceding the date that reactivation is requested.

~~(3)[(2)]~~ Failure to obtain thirty (30)~~[sixty (60)]~~ hours within six (6) months shall result in termination of certification or licensure.

~~(4)[(3)]~~ A person requesting reinstatement of certification as a certified alcohol and drug counselor associate I or certified alcohol and drug counselor associate II shall submit evidence of receiving sixty (60) hours of continuing education within the three (3) year period immediately preceding the date that reinstatement is requested.

~~(5)[(4)]~~ A person requesting reinstatement of a registration shall:

(a) Submit evidence of receiving thirty (30) hours of continuing education within the three (3) year period immediately preceding the date that reinstatement is requested; or

(b) Obtain ten (10) hours of continuing education within six (6) months of reinstatement of registration.

~~(6)[(4)]~~ Failure to obtain ten (10) hours within six (6) months shall result in termination of registration.

~~(7)[(5)]~~ A person requesting reactivation of registration, certification, or licensure shall submit evidence of receiving twenty (20) hours of continuing education within one (1) year immediately preceding the date that reactivation is requested. A minimum of ten (10) hours shall be live synchronous or~~[face-to-face]~~ continuing education presentations.

~~(8)[(6)]~~ The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 1 of this administrative regulation and shall not be used to comply with the requirements of that section.

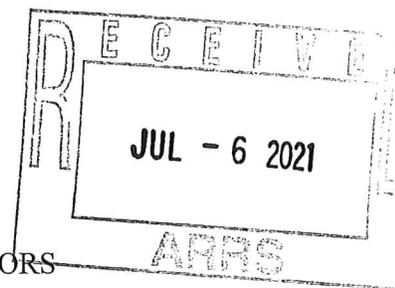
Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Continuing Education Sponsor Application Form", 2008; and

(b) "Continuing Education Program Application", June 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Alcohol and Drug Counselors, 500 Mero Street, 2 SC 32, Frankfort, Kentucky, telephone (502) 782-8814, Monday through Friday, 8:30 a.m. to 4:30 p.m. The board's Web site address is: <https://adc.ky.gov>.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone (502) 782-0562, fax (502) 564-4818, email KevinR.Winstead@ky.gov.



KENTUCKY BOARD OF ALCOHOL & DRUG COUNSELORS

Andy Beshear
Governor

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July 6, 2021

(Via email to RegsCompiler@LRC.KY.GOV)

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: 201 KAR 35:010 Definitions for 201 KAR Chapter 35.
201 KAR 35:020 Fees.
201 KAR 35:040 Continuing education requirements.
201 KAR 35:050 Curriculum of study.
201 KAR 35:055 Temporary registration or certification.
201 KAR 35:070 Supervision experience.
201 KAR 35:075 Substitution for work experience for an applicant for certification as an alcohol and drug counselor.
201 KAR 35:080 Voluntary inactive and retired status.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080, the Kentucky Board of Alcohol and Drug Counselors proposes the attached amendments to 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080.

Sincerely,

Kevin R. Winstead, Acting Commissioner
Department of Professional Licensing
Kentucky Public Protection Cabinet
500 Mero Street, 264SC, Frankfort, KY 40601
502-782-8805 (office) | KevinR.Winstead@ky.gov

Final 7-2-2021

SUGGESTED SUBSTITUTE TO AAC VERSION – ORDINARY ONLY

BOARDS AND COMMISSIONS
Board of Alcohol and Drug Counselors

201 KAR 35:050. Curriculum of study.

RELATES TO: KRS 309.083(4), (8), 309.0841, 309.0842, 309.0830, 309.0834

STATUTORY AUTHORITY: KRS 309.0813(1), (5), (6), 309.083(4), 309.0831(4), 309.0832(3), 309.0833(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.083(4), 309.0831(4), 309.0832(3), ~~and~~ 309.0833(1), 309.0841, 309.0842 require the Board of Alcohol and Drug Counselors to promulgate administrative regulations establishing curriculum requirements for applicants for a credential. This administrative regulation identifies the areas of study that will satisfy the requirement for persons credentialed by the board.

Section 1. (1) Registration. An applicant seeking registration as an alcohol and drug peer support specialist shall:

(a) Complete the required~~forty (40)]~~~~sixty (60)]~~ classroom hours, which shall include:

1. Sixteen (16) hours of interactive training in ethics of which eight (8) hours shall consist of face-to-face training;
2. Three (3) hours of domestic violence training;
3. Two (2) hours of training in the transmission, control, treatment, and prevention of the human immunodeficiency virus;
4. Ten (10) hours of advocacy training;
5. Ten (10) hours of training in mentoring and education; and
6. Ten (10) hours of training in recovery support; and

(b) File with the board KBADC Form 5, Peer Support Specialist Alcohol/Drug Training Verification Form.

(2) Certification as a certified alcohol and drug counselor associate I.

(a) An applicant seeking certification as a certified alcohol and drug counselor associate I shall:

1. Comply with the board-approved curriculum in KRS 309.0841; and

2. ~~[(b)]~~ File with the board KBADC Form 20, Certified Alcohol and Drug Counselor Associate I, Verification of Board-Approved Training.

(b) A certified alcohol and drug counselor associate I shall:

1. Complete at least thirty (30) additional classroom hours of board-approved curriculum during the first twelve (12) months after an initial certificate has been issued, that includes:

a. Screening assessment and engagement;

b. Treatment planning, collaboration, and referral;

c. Counseling; and

d. Professional and ethical responsibilities; and

2. File with the board KBADC Form 21, Certified Alcohol and Drug Counselor Associate I, Verification of Board-Approved Training for the First Twelve (12) Months After Initial Certification as Associate I, within thirty (30) days of the completion of twelve (12) months after initial certification as a certified alcohol and drug counselor associate I.

(3) Certification as a certified alcohol and drug counselor associate II. (a) An applicant seeking certification as a certified alcohol and drug counselor associate II shall comply with the

board-approved curriculum requirements KRS 309.0842; and

(b) File with the board a KBADC Form 22, Certified Alcohol and Drug Counselor Associate II Verification of **Board-Approved Curriculum**~~Classroom Training~~.

(4) Certification as an alcohol and drug counselor, or licensure as a licensed alcohol and drug counselor.

(a) An applicant seeking certification as an alcohol and drug counselor shall:

1. Complete 300~~[270]~~ classroom hours that are specifically related to the knowledge and skills necessary to perform the following alcohol and drug counselor competencies and shall include the following domains:

- a. Screening assessment and engagement~~[Understanding addiction];~~
- b. Treatment planning, collaboration, and referral~~[Treatment knowledge];~~
- c. Counseling~~[Application to practice]; and~~
- d. Professional and ethical responsibilities~~[Professional readiness;~~
- e. ~~Clinical evaluation;~~
- f. ~~Treatment planning;~~
- g. ~~Referral;~~
- h. ~~Service coordination;~~
- i. ~~Counseling;~~
- j. ~~Client, family, and community education;~~
- k. ~~Documentation; and~~
- l. ~~Professional and ethical responsibilities]; and~~

2. File with the board KBADC Form 10, Certified Alcohol and Drug Counselor and Licensed Alcohol and Drug Counselor~~];~~ Verification of Classroom Training.

(b) A minimum of six (6) hours of the total 300~~[270]~~ hours shall be interactive, face-to-face ethics training relating to counseling.

(c) Two (2) hours of the total 300~~[270]~~ hours shall be specific to transmission, control, and treatment of the human immunodeficiency virus and other sexually transmitted diseases.

(d) Three (3) hours of the total 300~~[270]~~ hours shall be specific to domestic violence.

(5)~~[(3)]~~ Licensure.

(a) An applicant seeking licensure as a licensed clinical alcohol and drug counselor or associate shall:

1. Complete 180 classroom hours of curriculum that are specifically related to the knowledge and skills necessary to perform the following alcohol and drug counselor competencies and shall include the following domains:

- a. Screening assessment and engagement~~[Understanding addiction];~~
- b. Treatment planning, collaboration, and referral~~[Treatment knowledge];~~
- c. Counseling~~[Application to practice]; and~~
- d. Professional and ethical responsibilities~~[Professional readiness;~~
- e. ~~Clinical evaluation;~~
- f. ~~Treatment planning;~~
- g. ~~Referral;~~
- h. ~~Service coordination;~~
- i. ~~Counseling;~~
- j. ~~Client, family, and community education;~~
- k. ~~Documentation; and~~
- l. ~~Professional and ethical responsibilities]; and~~

2. File with the board KBADC Form 11, Verification of Classroom Training.

(b) A minimum of six (6) hours of the total 180 hours shall be interactive, face-to-face ethics training relating to counseling.

(c) Two (2) hours of the total 180 hours shall be specific to transmission, control, and treatment of the human immunodeficiency virus and other sexually transmitted diseases.

(d) Three (3) hours of the total 180 hours shall be specific to domestic violence.

(6) Certification as a certified clinical supervisor. An applicant seeking certification as a certified clinical supervisor shall:

(a) Complete thirty (30) hours of education specific to the International Certification and Reciprocity Consortium clinical supervision domains with a minimum of five (5) hours in each of the following domains:

1. Counselor Development;

2. Professional and Ethical Standards;

3. Program Development and Quality Assurance;

4. Assessing Counselor Competencies and Performance; and

5. Treatment Knowledge; and

(b) [Applicant shall] Hold and maintain a certified alcohol and drug counselor, licensed alcohol and drug counselor, or licensed clinical alcohol and drug counselor credential.

Section 2. (1) Attendance at conferences, workshops, seminars, or in-service training related to addictions shall be acceptable to meet the requirements of Section 1 of this administrative regulation if the board determines that the activity:

(a) Is an organized program of learning;

(b) Covers an area listed in Section 1 of this administrative regulation; and

(c) Is conducted by a competent instructor, as documented by appropriate academic training, professional licensure or certification, or professionally recognized experience.

(2) One (1) semester hour of study from an accredited college or university credit shall equal fifteen (15) classroom hours.

(3) Publication on a subject relevant to addictions therapy may be submitted to the board. Credit shall be granted as established in this subsection.

(a) A chapter in a book shall be equivalent to ten (10) classroom hours.

(b) 1. Authoring or editing a book relevant to addictions therapy shall be given credit equivalent to thirty (30) classroom hours.

2. An applicant shall submit a copy of the title page, table of contents, and bibliography.

(c) 1. Publication in a professional refereed journal shall be equivalent to fifteen (15) classroom hours.

2. An applicant shall submit the journal table of contents and a copy of the article as it appeared in the journal including bibliography.

Section 3. (1) A list of courses the applicant wishes to have considered shall be organized by domains~~[core area]~~ as established in Section 1 of this administrative regulation and shall include documentation to verify that the course satisfies the requirements of that section.

(2) Appropriate documentation of the course shall include:

(a) Date;

(b) Title;

(c) Description;

(d) Sponsoring organization;

(e) Presenter and presenter's credentials;

(f) Number of contact hours attended; and

(g) Certificates of attendance or transcript.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "KBADC Form 5, Peer Support Specialist Alcohol/Drug Training Verification Form", March 2021~~[March 2017]~~;

(b) "KBADC Form 10, Certified Alcohol and Drug Counselor and Licensed Alcohol and

Drug Counselor Verification of Classroom Training”, ~~July/June/~~**[March]** 2021~~[June-2015]~~; ~~and]~~

(c) “KBADC Form 11, Verification of Classroom Training”, ~~March 2021~~~~[June-2015]~~; ~~]~~

(d) “KBADC Form 20, Certified Alcohol and Drug Counselor Associate I, Verification of Board-Approved Training”, March 2021;

(e) “KBADC Form 21, Certified Alcohol and Drug Counselor Associate I, Verification of Board-Approved Training for First Twelve (12) Months After Initial Certification as Associate I”;
March 2021; **and**

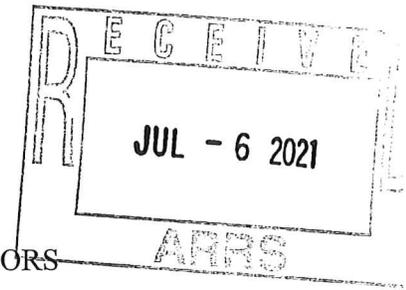
(f) “KBADC Form 22, Certified Alcohol and Drug Counselor Associate II Verification of Board-Approved Curriculum”, March 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Alcohol and Drug Counselors, 500 Mero St, 2 SC 32~~[911 Leawood Drive]~~, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. The board’s Web site address is: <https://adc.ky.gov>.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone (502) 782-0562, fax (502) 564-4818, email KevinR.Winstead@ky.gov.

At the time that this agency files this staff suggested amendment it needs to file one (1) clean copy of KBADC Form 10 that:

- Includes an updated edition date of July 2021
- Corrects cross reference to 201 KAR 35:050, Section 1(4)



KENTUCKY BOARD OF ALCOHOL & DRUG COUNSELORS

Andy Beshear
Governor

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July 6, 2021

(Via email to RegsCompiler@LRC.KY.GOV)

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: 201 KAR 35:010 Definitions for 201 KAR Chapter 35.
201 KAR 35:020 Fees.
201 KAR 35:040 Continuing education requirements.
201 KAR 35:050 Curriculum of study.
201 KAR 35:055 Temporary registration or certification.
201 KAR 35:070 Supervision experience.
201 KAR 35:075 Substitution for work experience for an applicant for certification as an alcohol and drug counselor.
201 KAR 35:080 Voluntary inactive and retired status.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080, the Kentucky Board of Alcohol and Drug Counselors proposes the attached amendments to 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080.

Sincerely,

Kevin R. Winstead, Acting Commissioner
Department of Professional Licensing
Kentucky Public Protection Cabinet
500 Mero Street, 264SC, Frankfort, KY 40601.
502-782-8805 (office) | KevinR.Winstead@ky.gov

SUGGESTED SUBSTITUTE ORDINARY ONLY

BOARDS AND COMMISSIONS

Board of Alcohol and Drug Counselors

201 KAR 35:055. Temporary registration or certification.

RELATES TO: KRS 309.083, 309.0831

STATUTORY AUTHORITY: KRS 309.0813(1), (5), 309.083, 309.0831

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(1) and (5) authorize the board to promulgate administrative regulations establishing the requirements for registering with the Board of Alcohol and Drug Counselors as a registered alcohol and drug peer support specialist, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, or licensed clinical alcohol and drug counselor. This administrative regulation establishes the requirements for temporary credentials **for registered alcohol and drug peer support specialists and certified alcohol drug counselors.**

Section 1. Application for Temporary Registration. (1) An applicant for temporary registration as a certified alcohol and drug peer support specialist may submit an application after the requirements established in KRS 309.0831(1), (2), (6), (7), and (10) are met.

(2) The application required by subsection (1) of this section shall be made by submitting a completed KBADC Form 1, incorporated by reference in 201 KAR 35:020. The application shall:

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of his or her knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; and

(b) Be accompanied by:

1. A check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 35:020, Section 1(1);

2. Proof of a high school diploma or equivalent;

3. A signed agreement to abide by the standards of practice and code of ethics approved by the board **as established in 201 KAR 35:030;**

4. KBADC Form 2, Attestation of Recovery, in which the applicant declares that he or she has been in recovery for a minimum of ~~one (1)~~ ~~two (2)~~ years from a substance-related disorder; and

5. A supervision agreement signed by the applicant and the applicant's supervisor.

Section 2. Application for Temporary Certification. (1) An applicant for temporary certification as a certified alcohol and drug counselor may submit KBADC Form 1, incorporated by reference in 201 KAR 35:020, after the requirements established in KRS 309.083(1), (2), (6), (7), and (10) are met.

(2) The application shall:

- (a) Include a certification by the applicant that the:
1. Information in the application is true, correct, and complete to the best of his or her knowledge and belief; and
 2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; and
- (b) Be accompanied by:
1. A check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 35:020, Section 1(1);
 2. An official transcript for the highest level~~[all levels]~~ of education required for certification;
 3. A signed agreement to abide by the standards of practice and code of ethics approved by the board ***as established in 201 KAR 35:030***; and
 4. A supervision agreement signed by the applicant and the applicant's supervisor.

Section 3. Period of Temporary Registration~~[Credential]~~. (1) The period of a temporary registration~~[credential]~~ shall be terminated upon the passage of two (2) years from issuance.

Section 4. Period of Temporary Certification. (1) The period of temporary certification shall be terminated upon the passage of two (2) years from issuance.

(2) The board may approve an extension of the period of a temporary certification ~~[credential]~~ for a maximum of two (2) years if a:

(a) Written request is submitted that is cosigned by the board approved supervisor; and

(b) One (1) of the following exists:

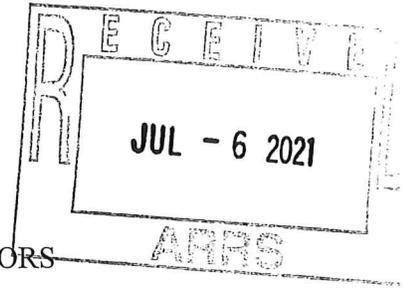
1. A circumstance ***established***~~[delineated]~~ in 201 KAR 35:040, Section 8(1); or
2. The temporary certified alcohol and drug counselor~~[credential holder]~~ presents evidence of insufficient time to:
 - a. Complete supervision, training, or work experience; or
 - b. Successfully pass the required examination.

(3) The board shall not grant more than three (3)~~[two (2)]~~ extensions of the period of a temporary certification~~[credential]~~.

Section 5~~[4]~~. Incorporation by Reference. (1) "KBADC Form 2, Attestation of Recovery", March 2021~~[June 2015]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Alcohol and Drug Counselors, 500 Mero St, 2 SC 32~~[911 Leawood Drive]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The board's Web site address is: <https://adc.ky.gov>.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone (502) 782-0562, fax (502) 564-4818, email KevinR.Winstead@ky.gov.



KENTUCKY BOARD OF ALCOHOL & DRUG COUNSELORS

Andy Beshear
Governor

PO Box 1360
Frankfort, KY 40602
Phone (502) 782-8814 - Fax (502) 564-4818
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July 6, 2021

(Via email to RegsCompiler@LRC.KY.GOV)

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: 201 KAR 35:010 Definitions for 201 KAR Chapter 35.
201 KAR 35:020 Fees.
201 KAR 35:040 Continuing education requirements.
201 KAR 35:050 Curriculum of study.
201 KAR 35:055 Temporary registration or certification.
201 KAR 35:070 Supervision experience.
201 KAR 35:075 Substitution for work experience for an applicant for certification as an alcohol and drug counselor.
201 KAR 35:080 Voluntary inactive and retired status.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080, the Kentucky Board of Alcohol and Drug Counselors proposes the attached amendments to 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080.

Sincerely,

Kevin R. Winstead, Acting Commissioner
Department of Professional Licensing
Kentucky Public Protection Cabinet
500 Mero Street, 264SC, Frankfort, KY 40601.
502-782-8805 (office) | KevinR.Winstead@ky.gov

SUGGESTED SUBSTITUTE TO AAC VERSION – ORDINARY ONLY

BOARDS AND COMMISSIONS
Board of Alcohol and Drug Counselors

201 KAR 35:070. Supervision experience.

RELATES TO: KRS 309.0814, 309.083(4), 309.0831, 309.0832, 309.0833, 309.0841, 309.0842, 309.0830, 309.0834

STATUTORY AUTHORITY: KRS 309.0813(1), (3), (5), 309.0814(1), 309.083(3), 309.0831(3), 309.0832(10), 309.0833(2), 309.086

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(1) requires the board to promulgate administrative regulations for the administration and enforcement of KRS 309.080 ~~through~~to 309.089. KRS 309.0813(3) requires the board to approve or disapprove those persons who shall be credentialed. This administrative regulation establishes the standards for the accumulation of required supervised work experience for licensed alcohol and drug counselors, licensed clinical alcohol and drug counselors, licensed clinical alcohol and drug counselor associates, certified alcohol and drug counselors, certified alcohol and drug counselor associates II, certified alcohol and drug counselor associates I, and registered alcohol and drug peer support specialists.

Section 1. (1)(a) Peer Support Specialist Supervision. Peer support specialist supervision shall continue throughout the period of registration. The supervision shall include the four (4) following domains:

1. Advocacy;
2. Ethical Responsibility;
3. Mentoring and Education; and
4. Recovery and Wellness Support.

(b) A supervisor of a peer support specialist shall complete and submit KBADC Form 8, Peer Support Specialist Verification of Supervision, that documents the twenty-five (25) hours of direct supervision.

(2) Clinical Supervision for Certification and Licensure Applicants. Clinical supervision shall ~~consist of at least 300 hours and shall~~ include a minimum of ten (10) hours in each of the following ~~four (4) domains~~twelve (12) core functions:

- (a) ~~Screening assessment and engagement~~Screening;
- (b) ~~Treatment planning, collaboration, and referral~~Intake;
- (c) ~~Counseling; and~~Client orientation;
- (d) ~~Professional and ethical responsibilities~~Assessment;
- (e) ~~Treatment planning~~;
- (f) ~~Counseling~~;
- (g) ~~Case management~~;
- (h) ~~Crisis intervention~~;

- (i) Client education;
- (j) Referral;
- (k) Reports and recordkeeping; and
- (l) Consultation].

(3) Clinical supervision shall meet the minimum requirements of the following:

(a) For applicants with a high school diploma or high school equivalency diploma requires 300 hours of clinical supervision with a minimum of ten (10) hours in each domain listed in subsection (2):

(b) For applicants with an associate's degree in a relevant field requires 250 hours of clinical supervision with a minimum of ten (10) hours in each domain;

(c) For applicants with a bachelor's degree in a relevant field requires 200 hours of clinical supervision with a minimum of ten (10) hours in each domain; and

(d) For applicants with a master's degree or higher in a relevant field requires 100 hours of clinical supervision with a minimum of ten (10) hours in each domain.

(4)(a) Clinical supervision may occur in individual or in group settings.

(b) The methods of clinical supervision **shall** include:

1. Face-to-face;
2. Video conferencing; or
3. Teleconferencing.[]

(4) ~~A minimum of 200 hours of clinical supervision shall be conducted face-to-face in an individual or group setting.]~~

(5) Supervision that exceeds two (2) hours in a single day shall be accompanied by a written explanation justifying the length of supervision exceeding two (2) hours.

(6) Clinical supervisors shall complete and submit KBADC Form 13, Verification of Clinical Supervision, which documents the required[300] hours of supervision that has occurred during the work experience, in the Application for Certification as an Alcohol and Drug Counselor, Application for Licensure as a **[Clinical]** Alcohol and Drug Counselor **[Associate]**, or Application for Licensure as a Clinical Alcohol and Drug Counselor, which are incorporated by reference in 201 KAR 35:020.

(7)~~(6)~~ For applicants applying for licensure who already possess a certified alcohol and drug counselor credential[If the applicant qualifies for licensure], supervision obtained under KRS 309.083 prior to February 5, 2016 shall be calculated toward the 100[300] hour supervision requirement under KRS 309.0832(3)[(4)] and **subsection[section] (3)(d) of this section[regulation].**

Section 2. Except as **established[provided]** by Section 1(6) of this administrative regulation, a supervisory arrangement shall have the prior approval of the board, with both supervisor and supervisee submitting a Supervisory Agreement to the board. The supervisor and supervisee shall also submit to the board the description of the supervisory arrangement or a change in the supervisory arrangement at least thirty (30) days prior to the effective date of the arrangement or change unless extenuating circumstances prevent the submission ~~[the thirty (30) day requirement]~~.

Section 3. (1) All supervision requirements shall:

(a) Be met with face-to-face individual or group weekly contact between supervisor and supervisee except as ***established[provided]*** in subsection (2) of this section and Sections 13 and 14 of this administrative regulation;

(b) Consist of not less than two (2) hours, two (2) times a month in the practice of alcohol and drug counseling; and

(c) Include additional supervision sessions, as needed.

(2) An alternative format of supervision, including two (2) way interactive video, may be substituted for the supervisory contact, required by subsection (1) of this section, upon specific approval by the board for certain types of circumstances, such as distance, weather, or serious injury or illness of the supervisor or supervisee.

(3) Upon a change of supervisor, a new plan for supervision shall be submitted by the supervisor and supervisee to the board for approval. This plan may require additional hours of supervision than was previously approved by the board.

(4) Upon termination of the supervisor-supervisee relationship, the final report of supervision shall be submitted to the board within thirty (30) days of the termination.

Section 4. (1)(a) A certified alcohol and drug counselor, ***licensed alcohol and drug counselor***, or licensed clinical alcohol drug counselor ***requesting[shall submit a Form 4, Request to Provide Supervision,]*** to become approved by the board to provide supervision ***shall:***

1. Submit a complete and signed Form 4, Request to Provide Supervision;

2. For[- (b)] a certified alcohol and drug counselor ***or licensed alcohol and drug counselor***, ***have [who has]*** at least two (2) years of post-certification experience, including Alcohol and Drug Counselor credentials transferred through reciprocity, and ***have[has]*** attended the board-sponsored supervision training; ~~***may be approved by the board to provide supervision***~~ ~~***or licensed clinical alcohol and drug counselor who has been approved by the board as a supervisor shall attend a board approved training session in supervisory practices within twelve (12) months of obtaining approval as a supervisor***~~

3. For[- (c)] a licensed clinical alcohol and drug counselor, ***have [who has]*** at least twelve (12) months of post-licensure experience, including Advanced Alcohol and Drug Counselor credentials transferred through reciprocity, or ***have[has]*** attended the board-sponsored supervision training; ***and***

4. Submit information as to whether or not the applicant has any unresolved complaints against the applicant's license or certification in Kentucky or any other state and, if there is an unresolved complaint, submit official documentation of the complaint or complaints. The board shall consider the severity, frequency, and history of violations and unresolved complaints.

(2) A board approved supervisor shall obtain a minimum of three (3) ***board-sponsored*** continuing education hours in supervision theory or techniques in each three (3) year renewal cycle. The board shall suspend its approval of a supervisor if the supervisor does not complete the required continuing education.

(3) A certified alcohol and drug counselor or licensed clinical alcohol and drug counselor shall not be the supervisor of record for more than ~~***twenty-five (25)***~~ ***twelve (12)*** supervisees.

(4) A licensed clinical alcohol and drug counselor associate shall only be supervised by a licensed clinical alcohol and drug counselor.

Section 5. (1) The supervisor shall make all reasonable efforts to be assured that each supervisee's practice is in compliance with this administrative regulation.

(2) The supervisor shall report to the board an apparent violation of KRS 309.086 on the part of the supervisee.

(3) The supervisor shall inform the board immediately of a change in the ability to supervise or in the ability of a supervisee to function in the practice of alcohol and drug counseling in a competent manner.

(4) The supervisor shall control, direct, or limit the supervisee's practice to ~~ensure~~**insure** that the supervisee's practice of alcohol and drug counseling is competent.

(5) The supervisor of record shall be responsible for the practice of alcohol and drug counseling or peer support services provided by the supervisee. If the board receives a complaint~~initiates an investigation~~ concerning a supervisee, the board shall notify the supervisor of record~~investigation shall include the supervisor of record~~.

(6) For each certificate or license holder~~person~~ supervised, the supervisor shall maintain a KBADC Form 13, Verification of Clinical Supervision, for each supervisory session that shall include the domain covered, date of session, length of session, and method of supervision~~type, place, and general content~~ of the session. For each registrant supervised, the supervisor shall maintain a KBADC Form 8, Peer Support Specialists Verification of Supervision Form, for each supervisory session that shall include the date, length, method, and domain covered during the session. This record shall be maintained for a period of not less than six (6) years after the last date of supervision.

Section 6. (1) The supervisor of record shall submit the Supervisor Log for each supervisee to the board on an annual basis with a KBADC Form 14, Supervision Annual Report~~or as directed otherwise by the board~~.

(2) The report shall include:

(a) A description of the frequency, format, and duration of supervision;

(b) An assessment of the functioning of the supervisee, including the strengths and weaknesses; and

(c) Other information **that could**~~which may~~ be relevant to an adequate assessment of the practice of the supervisee.

Section 7. (1) If a supervisee has more than one (1) board-approved supervisor, the supervisors shall be in direct contact with each other at least once every six (6) months, and they shall provide supervisory plans and reports to the board and copies to each other.

(2) A request to have more than two (2) supervisors at one (1) time shall require a written request to the board, which shall include detailed information as to how the supervisors shall communicate and coordinate with each other in providing the required supervision.

Section 8. If the supervisee is a licensed clinical alcohol and drug counselor associate, ~~or an applicant for a certificate as~~ a temporary certified alcohol and drug counselor, certified alcohol and drug counselor associate I, or certified alcohol and drug counselor associate II, the supervisor of record shall:

- (1) Review all alcohol and drug assessments and treatment plans;
- (2) Review progress notes and correspondence on a regular basis to assess the competency of the supervisee to render alcohol and drug services;
- (3) Jointly establish with the supervisee a supervisory plan that shall be submitted to the board and approved within thirty (30) days of the beginning of the supervisory relationship. The plan shall:
 - (a) Be updated, **[and]** revised~~[,]~~ as needed, and submitted to the board annually;
 - (b) Include intended format and goals to be accomplished through the supervisory process; and
 - (c) Include methods that the supervisor and supervisee shall employ to evaluate the supervisory process;
- (4) At least semi-annually, have direct observation of the supervisee's work, which may be accomplished through audiotaping, video camera, videotaping, one (1) way mirror, or as a co-therapist;
- (5) Have direct knowledge of the size and complexity of the supervisee's caseload;
- (6) Limit and control the caseload, as appropriate, to the supervisee's level of competence;
- (7) Have knowledge of the therapeutic modalities and techniques being used by the supervisee;
- (8) Have knowledge of the supervisee's physical and emotional well-being if it has a direct bearing on the supervisee's competence to practice; and
- (9) Submit a completed KBADC Form 7, Supervision Evaluation, within thirty (30) days of termination of a ~~[peer support special]~~ supervisory agreement.

Section 9. If the supervisee is a peer support specialist, the supervisor of record shall:

- (1) Jointly establish with the supervisee a supervisory plan that shall be submitted to the board and approved within thirty (30) days of the beginning of the supervisory relationship. The plan shall:
 - (a) Be updated, **[and]** revised~~[,]~~ as needed, and submitted to the board annually;
 - (b) Include intended format and goals to be accomplished through the supervisory process; and
 - (c) Include methods that the supervisor and supervisee shall employ to evaluate the supervisory process;
- (2) Review and countersign all peer recovery service plans;
- (3) Review peer recovery notes and correspondence on an as-needed basis to assess the competency of the supervisee to render peer recovery services;
- (4) At least once every two (2) months, have direct observation of the supervisee's work, which may be accomplished through audiotaping, video camera, videotaping, one (1) way mirror or direct observation;
- (5) Have direct knowledge of the size and complexity of the supervisee's caseload;
- (6) Limit and control the caseload, as appropriate, to the supervisee's level of competence;
- (7) Have knowledge of the methods and techniques being used by the supervisee;
- (8) Have knowledge of the supervisee's physical and emotional well-being if it has a direct bearing on the supervisee's competence to practice; and
- (9) Submit a completed KBADC Form 9, Supervision Evaluation for Peer Support Specialist,

within thirty (30) days of termination of a peer support special supervisory agreement.

Section 10. (1) The supervisee shall:

(a) Keep the supervisor adequately informed at all times of his or her activities and ability to function; and

(b) Seek consultation from the supervisor, as needed, in addition to a regularly-scheduled supervisory session.

(2) The supervisee shall:

(a) Participate with the supervisor in establishing supervisory goals and in completing the regular supervisory reports;

(b) Be jointly responsible with the supervisor for ensuring that a supervisory report or plan has been sent to the board, in accordance with the reporting schedule established in Section 6(1) of this administrative regulation; and

(c) Report to the board an apparent violation on the part of the supervisor.

(3) Except as ***established[provided]*** in Section 11 of this administrative regulation, a supervisee shall not continue to practice alcohol and drug counseling or peer support services if:

(a) The conditions for supervision ***established[set forth]*** in the supervisory agreement are not followed;

(b) There is a death or serious illness of the board-approved supervisor that results in the supervisor not being able to provide supervision; or

(c) The supervisory agreement is terminated by the board, the board-approved supervisor, or the supervisee for any reason other than the extenuating circumstances that allow temporary supervision in Section 11 of this administrative regulation.

Section 11. Temporary Supervision. (1) In extenuating circumstances, if a supervisee is without supervision, the supervisee may continue working up to sixty (60) calendar days under the supervision of a "qualified mental health ***professional"[provider]*** as defined by KRS 202A.011(12), a certified alcohol and drug counselor, or a licensed clinical alcohol and drug counselor while an appropriate board-approved supervisor is sought and a new supervisory agreement is submitted to the board. Extenuating circumstances include situations such as death or serious illness of the board-approved supervisor, a leave of absence by the supervisor, the termination of the supervisor's employment, or termination of the supervisory agreement except for a violation of KRS 309.080 ***through[te]*** 309.089, or 201 KAR Chapter 35.

(2)(a) Within ten (10) days of the establishment of the temporary supervisory arrangement, the supervisee shall notify the board of the extenuating circumstances that have caused the supervisee to require temporary supervision.

(b) The supervisee shall submit, in writing, a plan for resolution of the situation within thirty (30) calendar days of the establishment of the temporary supervisory arrangement.

(c) The written plan shall include:

1. The name of the temporary supervisor;

2. Verification of the credential held by the temporary supervisor;

3. An email address and a postal address for the temporary supervisor and the supervisee; and

4. A telephone number for the temporary supervisor.

(3) The temporary supervisory arrangement shall expire after sixty (60) days of the establishment of the temporary supervisory arrangement.

(4) To avoid the expiration of a temporary supervisory arrangement:

(a) A temporary alcohol and drug counselor shall submit a completed KBADC Form 3, Supervisory Agreement; or

(b) A peer support specialist shall submit a completed KBADC Form 6, Peer Support Specialist Supervisory Agreement.

Section 12. Identification of Provider and Supervisor of Record. The actual deliverer of a service shall be identified to the client, and the client shall be informed of the deliverer's credential and name of supervisor of record. ~~[A billing for a rendered service shall identify which service was performed by the registered alcohol and drug peer support specialist, applicant as a certified alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, or other provider who is supervised by the board approved supervisor of record.]~~

Section 13. Supervision of a Disciplined Credential Holder. (1) The board shall appoint an approved supervisor to supervise a disciplined credential holder for the period of time ***established[defined]*** by the board and a member of the board to serve as a liaison between the board and the appointed supervisor.

(2) The disciplined credential holder shall be responsible for paying the fee for supervision.

(3) The supervisor shall have completed the board ~~sponsored~~**[approved]** training course in supervision.

(4) The supervisor shall:

(a) Review the originating complaint, agreed order, or findings of the disciplinary hearing;

(b) Meet with the disciplined credential holder and the board liaison to:

1. Summarize the actions and concerns of the board;

2. Review the goals and expected outcomes of supervision submitted by the board liaison;

3. Develop a specific plan of supervision approved by the board; and

4. Review the reporting requirements that shall be met during the period of supervision;

(c) Meet with the disciplined credential holder at least weekly, on an individual face-to-face basis for a minimum of one (1) hour unless modified by the board;

(d) Submit a quarterly report to the board which reflects progress, problems, and other information relevant to the need for board-mandated supervision;

(e) Make all reasonable efforts to insure that the disciplined credential holder's practice is in compliance with KRS 309.080 ***through[to]*** 309.089, and 201 KAR Chapter 35;

(f) Report to the board any apparent violation on the part of the disciplined credential holder;

(g) Immediately report to the board in writing a change in the ability to supervise, or in the ability of the disciplined credential holder to function in the practice of peer recovery support or the practice of alcohol and drug~~[substance use disorders]~~ counseling in a competent manner;

(h) Review and countersign assessments, as needed or appropriate;

(i) Review and countersign service or treatment plans, as needed or appropriate;

(j) Have direct observation of the disciplined credential holder's work on an as-needed basis;

(k) Have direct knowledge of the size and complexity of the disciplined credential holder's caseload;

(l) Have knowledge of the therapeutic methods, modalities, or techniques being used by the disciplined credential holder; and

(m) Have knowledge of the disciplined credential holder's physical and emotional well-being if it has a direct bearing on the disciplined credential holder's competence to practice.

(5) The supervisor shall control, direct, or limit the disciplined credential holder's practice to ensure that the disciplined credential holder's practice is competent.

(6) The supervisor shall contact the board liaison with any concern or problem with the disciplined credential holder, his or her practice, or the supervision process.

(7) A final meeting shall be scheduled within thirty (30) days of the end of the established supervision period to summarize the supervision. The meeting shall include the supervisor, disciplined credential holder, and board liaison. A written summary of the supervision shall be submitted by the supervisor to the board two (2) weeks following this meeting with a copy to the board liaison.

~~Section 14. [Graduate Students in Programs Emphasizing Substance Use Disorders Counseling. Graduate-level students in programs that emphasize alcohol and drug counseling who are providing services in health care settings that provide alcohol and drug counseling including independent practice settings shall:~~

~~(1) Be supervised by a licensed clinical alcohol and drug counselor or certified alcohol and drug counselor;~~

~~(2) Be registered for practicum credit on the transcript in his or her course of study;~~

~~(3) Clearly identify their status as unlicensed trainees in the field of alcohol and drug counseling to all clients and payors;~~

~~(4) Give to all clients and payors the name of the supervising licensed clinical alcohol and drug counselor or certified alcohol and drug counselor responsible for the student's work; and~~

~~(5) Not accept employment or placement to perform the same or similar activities following the completion of their university-sanctioned placement, regardless of the job title given, unless the student holds a certificate or license from the board.~~

~~Section 15.] Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) "KBADC Form 3, Supervisory Agreement", March 2021[~~June 2015~~];~~

~~(b) "KBADC Form 4, Request[~~ReOequest~~] to Provide Supervision", June[~~March~~] 2021[~~June 2015~~];~~

~~(c) "KBADC Form 6, Peer Support Specialist Supervisory Agreement", March 2021[~~June 2015~~];~~

~~(d) "KBADC Form 7, Supervision Evaluation", March 2021[~~June 2015~~];~~

~~(e) "KBADC Form 8, Peer Support Specialist Verification of Supervision", March 2021[~~June 2015~~];~~

~~(f) "KBADC Form 9, Supervision Evaluation for Peer Support Specialist", March 2021[~~September 2017~~];~~

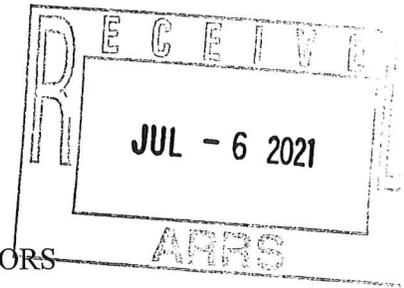
~~(g) "KBADC Form 13, Verification of Clinical Supervision", March 2021[~~June 2015~~]; and~~

~~(h) "KBADC Form 14, Supervision Annual Report", March 2021[~~June 2015~~].~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Alcohol and Drug Counselors, 500 Mero St, 2 SC 32[~~911 Leawood~~~~

Drive], Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. The board's Web site address is: <https://adc.ky.gov>.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone (502) 782-0562, fax (502) 564-4818, email KevinR.Winstead@ky.gov.



KENTUCKY BOARD OF ALCOHOL & DRUG COUNSELORS

Andy Beshear
Governor

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July 6, 2021

(Via email to RegsCompiler@LRC.KY.GOV)
Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: 201 KAR 35:010 Definitions for 201 KAR Chapter 35.
201 KAR 35:020 Fees.
201 KAR 35:040 Continuing education requirements.
201 KAR 35:050 Curriculum of study.
201 KAR 35:055 Temporary registration or certification.
201 KAR 35:070 Supervision experience.
201 KAR 35:075 Substitution for work experience for an applicant for certification as an alcohol and drug counselor.
201 KAR 35:080 Voluntary inactive and retired status.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080, the Kentucky Board of Alcohol and Drug Counselors proposes the attached amendments to 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080.

Sincerely,

Kevin R. Winstead, Acting Commissioner
Department of Professional Licensing
Kentucky Public Protection Cabinet
500 Mero Street, 264SC, Frankfort, KY 40601
502-782-8805 (office) | KevinR.Winstead@ky.gov

SUGGESTED SUBSTITUTE TO AAC VERSION – ORDINARY ONLY

BOARDS AND COMMISSIONS

Board of Alcohol and Drug Counselors

201 KAR 35:075. Substitution for work experience for an applicant for certification as an alcohol and drug counselor and licensed alcohol and drug counselor.

RELATES TO: KRS 309.083, 309.0831, 309.0832, 309.0833, **309.0830**

STATUTORY AUTHORITY: KRS 309.0813(1), (3), (5), 309.083, 309.0831, 309.0832, 309.0833

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(1) authorizes the board to promulgate administrative regulations for the administration and enforcement of KRS 309.080 ~~through~~ 309.089. KRS 309.083, 309.0831, 309.0832, [and] 309.0833, 309.0841, and 309.0842 establish the standards for the accumulation of the required supervised work experience. This administrative regulation establishes the requirements for substituting education for work experience requirements for an applicant for certification as an alcohol and drug counselor and licensed alcohol and drug counselor.

Section 1. Substitution for Work Experience for an Applicant for Certification as an Alcohol and Drug Counselor under KRS 309.083 or a licensed alcohol and drug counselor under KRS 309.0830. (1) An applicant may substitute, for part of the work experience, a degree in a related field such as:

- (a) Addictions;
- (b) Counseling;
- (c) Psychology;
- (d) Psychiatric nursing; or
- (e) Social work.

(2) An applicant may request to substitute an educational degree for part of the required work experience by submitting KBADC Form 12, Workplace Experience Substitution Request, to the board along with transcripts from an accredited college or university.

(3) Educational substitution shall be reviewed and approved by the board based upon education relative to the delivery of alcohol and other drug counseling.

(a) A master's degree or higher in a related field, with a specialization in addictions or drug and alcohol counseling, may be substituted for 4,000 hours of work experience.

(b) A master's degree or higher in a related field, without the specialization in paragraph (a) of this subsection, may be substituted for 3,000 hours of work experience.

(c) A bachelor's degree in a related field may be substituted for 2,000 hours of work experience.

(d) A bachelor's degree in an unrelated field shall not qualify for a substitution of hours, and the applicant shall provide proof of 6,000 hours of work experience as established in KRS 309.083(3).

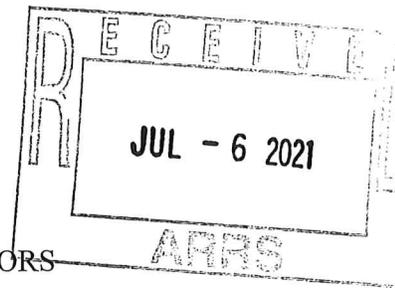
(4) The hours of work experience shall be documented on the candidate's application for cer-

tification and shall contain verification by the supervisor.

Section 2. Incorporation by Reference. (1) "KBADC Form 12, Workplace Experience Substitution Request", ~~June~~**March** 2021~~[June 2015]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Alcohol and Drug Counselors, 500 Mero St, 2 SC 32~~[911 Leawood Drive]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The board's Web site address is: <https://adc.ky.gov>.

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KENTUCKY BOARD OF ALCOHOL & DRUG COUNSELORS

Andy Beshear
Governor

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July 6, 2021

(Via email to RegsCompiler@LRC.KY.GOV)

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

RE: 201 KAR 35:010 Definitions for 201 KAR Chapter 35.
201 KAR 35:020 Fees.
201 KAR 35:040 Continuing education requirements.
201 KAR 35:050 Curriculum of study.
201 KAR 35:055 Temporary registration or certification.
201 KAR 35:070 Supervision experience.
201 KAR 35:075 Substitution for work experience for an applicant for certification as an alcohol and drug counselor.
201 KAR 35:080 Voluntary inactive and retired status.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080, the Kentucky Board of Alcohol and Drug Counselors proposes the attached amendments to 201 KAR 35:010, 201 KAR 35:020, 201 KAR 35:040, 201 KAR 35:050, 201 KAR 35:055, 201 KAR 35:070, 201 KAR 35:075, and 201 KAR 35:080.

Sincerely,

Kevin R. Winstead, Acting Commissioner
Department of Professional Licensing
Kentucky Public Protection Cabinet
500 Mero Street, 264SC, Frankfort, KY 40601
502-782-8805 (office) | KevinR.Winstead@ky.gov

SUGGESTED SUBSTITUTE TO AAC – ORDINARY ONLY

**BOARDS AND COMMISSIONS
Board of Alcohol and Drug Counselors**

201 KAR 35:080. Voluntary inactive and retired status.

RELATES TO: KRS 309.0813(5) and (12), **309.0830, 309.0834**

STATUTORY AUTHORITY: KRS 309.0813(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(5) requires the board to promulgate administrative regulations to define the process to register with the board as a registered alcohol and drug peer support specialist, certified alcohol and drug counselor associate I, certified alcohol and drug counselor associate II, certified alcohol and drug counselor, **licensed alcohol and drug counselor**, licensed clinical alcohol and drug counselor associate, ~~or~~ licensed clinical alcohol and drug counselor, **and certified clinical supervisor**. KRS 309.0813(1) requires the board to promulgate administrative regulations for the administration and enforcement of KRS 309.080 ~~through~~**[to]** 309.089. This administrative regulation allows credential holders to place their credentials in voluntary inactive status or retired for a period of time if they do not intend to actively practice alcohol and drug counseling or alcohol and drug peer support services in the Commonwealth of Kentucky.

Section 1. Conditions for Application for Voluntary Inactive Status. (1) Voluntary inactive status shall be for the credential holder who is currently not working as a peer support specialist or an alcohol and drug counselor, yet plans to return to providing peer support services or alcohol and drug counseling.

(2) The Kentucky Board of Alcohol and Drug Counselors shall grant inactive status if one (1) or more of the following conditions apply:

- (a) Medical problems;
- (b) Maternity or paternity;
- (c) Education;
- (d) Military service; or
- (e) Family or personal issues.

Section 2. Instructions for Application for Voluntary Inactive Status. (1) A credential holder, including a temporary credential holder, desiring inactive status shall send a letter of request to the office of the Kentucky Board of Alcohol and Drug Counselors and include the following information:

- (a) Current home address and telephone number;
- (b) Reason for request;
- (c) Final date of employment providing peer support services or~~in the~~ alcohol and drug counseling ~~[field]~~;
- (d) Final date of supervision;

(e) Anticipated date of return to employment providing peer support services or~~[in the]~~ alcohol and drug counseling~~[field]~~; and

(e) Nonrefundable enrollment fee of fifty (50) dollars as established in 201 KAR 35:020, Section 7.

(2) The request for voluntary inactive status shall be placed on the agenda of the next regularly-scheduled meeting of the Kentucky Board of Alcohol and Drug Counselors for consideration.

(3) The applicant shall be notified of the board's decision no later than two (2) weeks after the board's meeting.

Section 3. Terms and Responsibilities. (1) While on voluntary inactive status, an individual shall continue to receive bulletins, newsletters, and other communications from the Kentucky Board of Alcohol and Drug Counselors.

(2) A counselor on voluntary inactive status shall not practice or use the title or initials of a counselor or supervisor such as, TCADC, Associate I, Associate II, CADC, LCADCA,~~[or]~~ LCADC, or CCS.

(3) A peer support specialist on voluntary inactive status shall not practice or use the initials or title of a registered peer support specialist such as, TRADPSS or RADPSS~~[RPSS]~~.

(4) Individuals on voluntary inactive status shall not be eligible for reciprocity.

(5) Individuals on voluntary inactive status shall comply with the Kentucky Code of Ethics as established in 201 KAR 35:030.

(6) The voluntarily inactive individual shall notify the Kentucky Board of Alcohol and Drug Counselors prior to returning to work providing peer support services,~~[or]~~~~[in the]~~ alcohol and drug counseling, or clinical supervision ~~[field]~~ and pay the reactivation fee established in 201 KAR 35:020, Section 7.

(7) Failure to notify the board prior to returning to employment shall constitute a violation of the Kentucky Board of Alcohol and Drug Counselors Code of Ethics in 201 KAR 35:030, and shall result in referral to the board for investigation, in accordance with the procedures established~~[outlined]~~ in 201 KAR Chapter 35.

(8) A credential holder may remain on inactive status for two (2) years, unless an extension of time is granted.

(9) The two (2) year period of inactive status shall begin when the board grants the request for inactive status.

(10) A credential holder may request one (1) extension of time of two (2) years by submitting to the board a written request to continue on inactive status and an explanation of the reason for the request.

(11) If the credential holder does not submit a request for extension of the inactive status or fails to reactivate the credential before the end of the inactive status, the credential shall expire.

Section 4. Reactivation. (1) Individuals requesting reactivation of their registration, certification, or licensure status shall send a letter of request to the office of the Kentucky Board of Alcohol and Drug Counselors and shall include~~[the following]~~:

- (a) Current home address;
- (b) Current e-mail address;

- (c) Description of change of circumstances allowing active participation in the field;
 - (d) Address of employing agency, if applicable;
 - (e) Submission of proof of attendance of continuing education as required by 201 KAR 35:040; and
 - (f) Nonrefundable reactivation fee as established in 201 KAR 35:020, Section 7(3).
- (2)(a) A request for reactivation shall be considered at the next regularly scheduled meeting of the Kentucky Board of Alcohol and Drug Counselors.
- (b) The applicant shall be notified within two (2) weeks of the board's decision.

Section 5. Conditions for Retired Status. (1) Except for an individual issued a temporary registration or certification, a certified alcohol and drug counselor associate I, a certified alcohol and drug counselor associate II, or a license as a clinical alcohol and drug counselor associate, retired status ~~shall~~**may** be granted to a credential holder **who meets the criteria established in this section** upon written request to the board.

(2) The board may grant retired status to a credential holder submitting a written request if that individual:

(a) ~~Suffers[is at least sixty-five (65) years old, or suffers]~~ a physical or mental~~medical~~ disability or illness that renders the credential holder unable to provide peer support services or practice alcohol and drug counseling; ~~or~~**and**

(b) Has retired from providing peer support services or the practice of alcohol and drug counseling in all jurisdictions and is not conducting an active practice in any jurisdiction.

(3) A credential holder granted retired status by the board shall:

(a) Not be required to meet the continuing education requirements under 201 KAR 35:030;

(b) Be relieved of the obligation to pay the renewal and penalty fees under 201 KAR 35:020, Section 4 and the inactive status fees under 201 KAR 35:020, Section 7; and

(c) Use the designation "-R" at the end of the acronym for the appropriate credential such as, ~~RADPSS-R~~**[RPSS-R]**, ~~CADC-R~~, **LADC-R, LCADC-R, or CCS-R**~~[or LCADC-R]~~.

(4) A credential holder who retires and later seeks reinstatement shall meet applicable current initial registration, certification, or licensure requirements as **established**~~provided~~ in KRS 309.083 through 309.0833, 201 KAR 35:025, 35:050, and 35:070.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone (502) 782-0562, fax (502) 564-4818, email KevinR.Winstead@ky.gov.

RECEIVED
7-1-2021



Andy Beshear
Governor

Lt. Gov. Jacqueline Coleman
Secretary
Education and Workforce
Development Cabinet

Jason E. Glass, Ed.D.
Commissioner of Education and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov

July 1, 2021

Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 702 KAR 3:060. Procedure for payment of employees

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 3:060, the Kentucky Board of Education proposes the attached suggested substitute.

Sincerely,

A handwritten signature in black ink that reads "Todd G. Allen".

Todd G. Allen
General Counsel

SUGGESTED SUBSTITUTE

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education**

702 KAR 3:060. Procedure for payment of employees.

RELATES TO: KRS 157.390, 157.395, 160.291, 160.450, 161.210(1)

STATUTORY AUTHORITY: KRS 156.070(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 160.291 ~~requires~~**[provides]** for all school employees working on a continuing, regular basis of less than twelve (12) months a year to be paid regularly, on dates determined by the employing board of education, with the gross salary received on each pay date to be equal to the employee's annual salary divided by the number of pay dates and with payments deemed to be for services rendered. KRS 160.450 ~~requires~~**[provides for]** the fiscal year of all school districts to begin on July 1 and end on June 30. KRS 161.210 requires a teacher or other person in a public school to submit reports at the time and in the manner prescribed by the state board. KRS 156.070 ~~requires~~**[gives]** the Kentucky Board of Education ~~to manage~~**[the management]** and control ~~[of the]~~public schools. KRS 157.395 requires a local board of education to provide a public school teacher who has attained certification from the National Board for Professional Teaching Standard with an annual salary supplement ~~[of \$2000]~~ for the life of the certificate while the teacher is employed as a teacher or mentor in the field of national certification. ~~*[A teacher who attained certification from the National Board for Professional Teaching Standards before July 1, 2020 shall receive a national board certification salary supplement of \$2,000 for the life of the certificate. A teacher who attains certification after July 1, 2020, shall receive an annual national board certification salary supplement for the life of the certificate in accordance with the amount appropriated for this purpose by the General Assembly. If an annual supplement amount appropriated by the General Assembly is less than \$2,000, the local board may provide an additional supplement up to the amount required for the total annual supplement to equal \$2,000. A local board of education requests reimbursement for these purposes from the fund to Support Education Excellence in Kentucky (SEEK).]*~~ This administrative regulation establishes procedures relative to payment of certified and classified school employees.

Section 1. A board of education shall establish a calendar for payment of salaries to all school employees working on a continuing, regular basis of less than twelve (12) months a year and may require a teacher to present reports of attendance and other necessary reports before the salary check is delivered.

Section 2. A board of education may adopt a policy whereby employees' salaries may be made payable for a period in excess of the number of months for which the school is operated, not exceeding twelve (12) months if the board adopts one (1) of the following plans:

(1) The board of education shall write all deferred salary checks on or before June 30 of the current fiscal year and these deferred checks shall then be delivered at the regular pay periods in July and August of the following fiscal year; or

(2) The board of education shall set up a payroll account into which shall be transferred on the order of the board of education on or before June 30, the gross amount for salaries earned by employees but not paid. The amounts transferred into this payroll account shall be held for the payment of deferred employees' salaries and shall not be used for any other purpose. Payment of salaries from this fund shall be at the regular pay periods in July and August of the following fiscal year.

Section 3. Upon written request to the superintendent by a school district employee, a local board of education shall pay all deferred salary checks to the employee. To comply with the written request, a local board shall provide the deferred checks prior to the end of the fiscal year and no later than the first regular payroll date occurring after completion of the employee's responsibilities or duties.

Section 4. (1) A board of education shall pay an annual national board certification salary supplement [~~of \$2,000~~] to a teacher who has attained certification from the National Board for Professional Teaching Standards who works as a teacher or mentor in the field of certification at least fifty (50) percent of the time.

(2) A board of education shall request reimbursement for salaries supplements paid during a school year by submitting the following information to the Department of Education by May 15 of that school year:

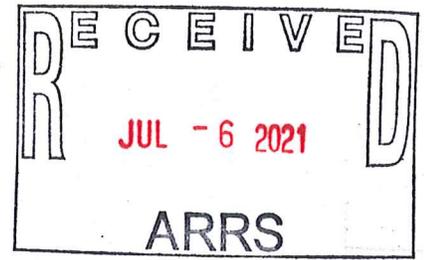
- (a) Teacher's name;
- (b) [~~Social Security number~~;
- (c)] Field of national certification;
- (c)] [~~(d)~~] Subject and grade;
- (d)] [~~(e)~~] Date of certification;
- (e)] [~~(f)~~] For teachers eligible for the first time, the date of completion of all requirements for the National Board for Professional Teaching certificate;
- (f)] [~~(g)~~] School name; and
- (g)] [~~(h)~~] Reimbursement amount requested.

(3) If an eligible teacher satisfactorily completes all requirements for the National Board for Professional Teaching certificate by September 1 of the school year, the salary supplement [~~of \$2,000~~] shall be added to the teacher's annual salary. If the teacher becomes eligible for the national board certification salary supplement during the school year, the school district shall pay the portion of the salary supplement equal to the portion of the school year during which the teacher was eligible. [~~If an eligible teacher completes all requirements for the National Board for Professional Teaching certificate between September 2 and December 31 of the school year, the salary supplement of \$1,000 shall be added to the teacher's annual salary.~~]

(4) If the teacher becomes ineligible for the national board certification salary supplement during the school year, the school district shall pay the portion of the salary supplement equal to the portion of the school year during which the teacher was eligible.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.



KENTUCKY LABOR CABINET
Department of Workers' Claims

Andy Beshear
Governor

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Secretary

Jacqueline Coleman
Lieutenant Governor

Vickie L. Wise
Deputy Secretary

July 6, 2021

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 803 KAR 25:015, the Dept. of Workers' proposes the attached suggested amendment to 803 KAR 25:015. *Claim*

Sincerely,

B. Dale Hamblin, Jr.
Assistant General Counsel
Department of Workers' Claims
Mayo-Underwood Building, 3rd Floor
500 Mero Street
Frankfort, KY 40601

REVISED:
7/2/2021 2:49 PM
SUGGESTED SUBSTITUTE

LABOR CABINET
Department of Workers' Claims
(Amendment)

803 KAR 25:015. Issuance of citations and procedure in workers' compensation enforcement hearings.

RELATES TO: KRS Chapter 13B, 342.990

STATUTORY AUTHORITY: KRS ~~13B.070(3)~~~~[13B.090(3)]~~, 13B.170, 342.267, 342.260, 342.990(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 13B.170 authorizes administrative agencies to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 13B governing administrative hearings. KRS 342.260 requires the Commissioner ~~[Executive Director]~~ of the Department ~~[Office]~~ of Workers' Claims to promulgate administrative regulations necessary to carry on the work of the department~~[office]~~ and administrative law judges. KRS 13B.070(3) requires administrative agencies to promulgate administrative regulations to set forth specific procedures to facilitate informal settlement of matters. KRS ~~342.260(4)~~~~[342.260(3)]~~ requires processes and procedures to be as summary and simple as reasonably possible. KRS 342.267 and 342.990 establish penalties for various violations of KRS Chapter 342. KRS 342.990 also provides a party the opportunity to challenge a penalty assessed against them. This administrative regulation establishes procedures for enforcement hearings under KRS Chapter 342.

Section 1. Definitions. (1) "Administrative law judge" means an individual appointed pursuant to KRS ~~342.230(2)~~ ~~[342.230(3)]~~.

(2) **"Business day" means any day except Saturday, Sunday or any day which is a legal holiday.**

~~(3) "Commissioner" is defined by KRS 342.0011(9). [The definition of "hearing officer" shall be governed by KRS 13B.010(7).]~~

~~[(3) "**Business**[Working] day" means a day that falls on a Monday through Friday, with the exception of a state or federal holiday, or other day on which the Department ~~[Office]~~ of Workers' Claims is officially closed for business.]~~

Section 2. (1) Prior to issuing a notice of citation and penalty, the commissioner ~~[executive director]~~ may issue a show cause order to a person who has allegedly violated

KRS Chapter 342 or **803 KAR Chapter 25 [an administrative regulation promulgated thereunder]** to appear at an informal conference to show cause why a citation should not be issued.

(2) The show cause order shall include the following:

(a) Detailed explanation of alleged violations;

(b) Statutes or administrative regulations that were allegedly violated; ***[and]***

(c) Date, time, and place of show cause informal conference; ***and [.]***

(d) If the commissioner [~~executive director~~] is not presiding over the informal conference, the name of the commissioner's designee [~~presiding hearing officer~~].

(3) The person issued a show cause order shall be present on the specified date, time, and place and show cause why a citation should not be issued.

(4) The commissioner [~~executive director~~] or the commissioner's designee [~~hearing officer~~] shall gather relevant evidence concerning the alleged violations of KRS Chapter 342 from a representative of the Department [~~Office~~] of Workers' Claims and the person to whom the show cause order was issued.

(5) If the commissioner [~~executive director~~] is presiding over the informal conference and the parties wish to resolve the matter informally without the necessity of a citation and a formal hearing, an agreement may be entered.

(6) If the commissioner's designee [~~a hearing officer~~] is presiding over the informal conference and the parties wish to resolve the matter informally without the necessity of a citation and formal hearing, a recommended agreed order shall be submitted to the commissioner [~~executive director~~] for approval.

(7) If the parties do not resolve the matter by agreement and the commissioner's designee [~~a hearing officer~~] presides over the informal conference, the commissioner's designee [~~hearing officer~~] shall issue a recommended order which includes his findings of fact, conclusions of law, and recommended disposition to the commissioner [~~executive director~~] as to whether a citation should be issued.

(8) The commissioner [~~executive director~~] shall review the evidence and if applicable the recommended order and either:

(a) Issue a citation for ***[a]*** violation ***[or violations]*** of KRS Chapter 342 or **803 KAR Chapter 25 [the administrative regulations promulgated thereunder]**;

(b) Issue a statement that no citation is warranted; or

(c) Request additional evidence for further review.

(9) The commissioner ***may[has the discretion to]*** immediately issue a citation for any violation of KRS Chapter 342 or **803 KAR Chapter 25 [the administrative regulations promulgated thereunder]** without issuing a show cause order or conducting an informal conference.

Section 3. Issuance of Citation and Notice of Contest. (1) If the commissioner [~~executive director~~] initiates enforcement of a civil penalty pursuant to KRS 342.990, the "notice of

citation and penalty" shall be delivered to the appropriate party by certified mail or hand-delivered by authorized personnel of the Department [~~Office~~] of Workers' Claims.

(2) The party to whom a notice of citation and penalty has been delivered may contest the citation and penalty by filing a written "notice of contest" with the commissioner [~~executive director~~] within fifteen (15) working days of the receipt of the notice of citation and penalty.

(3) A notice of contest shall state the following:

(a) The specific grounds for [~~Grounds of~~] the contest; and

(b) Whether the fact of a violation or level of the civil penalty, or both, is being contested.

(4) If a notice of contest is not timely filed ***in accordance with KRS 342.990(4)***, the citation shall be ***[deemed]*** final and the penalty due for payment.

Section 4. Assignment to Administrative Law Judge; Prehearing Procedure. (1) [~~As soon as practicable upon receipt of a notice of contest, the executive director shall direct the chief administrative law judge to assign the matter to an administrative law judge for a hearing.~~

(2)] In accordance with KRS 342.990(5), the administrative law judge ***shall[may]*** require parties to file a stipulation of uncontested facts not later than five (5) business [~~working~~] days prior to the scheduled hearing date.

(2) [(3)] The administrative law judge may require each party to file a witness and exhibit list described in KRS 13B.090(3) not later than five (5) business [~~working~~] days prior to the scheduled hearing date with the administrative law judge and all other parties.

Section 5. Formal Hearing. (1) An administrative law judge shall preside over the conduct of the formal hearing and shall regulate the course of the proceeding in accordance with KRS Chapter 13B and any prehearing order issued by the administrative law judge.

(2) A party may submit proof at the formal hearing through the use of depositions, if the other parties received timely notice and had the opportunity to attend.

Section 6. Orders. (1) The administrative law judge shall determine if the commissioner's [~~executive director's~~] citation was properly issued and the penalty appropriately assessed and issue a final order in accordance with KRS 342.990(5) and 13B.120.

(2) The administrative law judge's final order shall be appealable to the Franklin Circuit Court in accordance with KRS 342.990(6) and 13B.140.

Section 7. Appeal/Payment of Fine. (1) If a party does not file a petition of appeal pursuant to KRS 342.990 and 13B.140, the order shall be **[deemed]** final and the civil penalty assessed in the order shall be due.

(2) A civil penalty that is not appealed to the Franklin Circuit Court shall be paid by certified check or money order payable to the Kentucky State Treasurer. The fine shall be mailed to the Department of Workers' Claims, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. [~~Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601 ATTN: Enforcement Docket.~~]



Andy Beshear
Governor

Ray Perry
Deputy Secretary

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Kerry B. Harvey
Secretary

Marc Guilfoil
Executive Director

Jonathan Rabinowitz
Chairman

June 24, 2021

VIA ELECTRONIC MAIL

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 810 KAR 2:001✓
810 KAR 3:001
810 KAR 4:001
810 KAR 5:001
810 KAR 6:001
810 KAR 6:010
810 KAR 6:030

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the **ordinary** administrative regulations: 810 KAR 2:001, 810 KAR 3:001, 810 KAR 4:001, 810 KAR 5:001, 810 KAR 6:001, 810 KAR 6:010, and 810 KAR 6:030, the Kentucky Horse Racing Commission proposes the attached suggested substitutes to these **ordinary** administrative regulations.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Jennifer Wolsing
General Counsel



An Equal Opportunity Employer M/F/D

SUGGESTED SUBSTITUTE *ORDINARY ONLY*

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 2:001. Definitions for 810 KAR Chapter 2.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to regulate conditions under which thoroughbred racing shall be conducted in Kentucky. KRS 230.260(8) authorizes the commission to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. This administrative regulation defines the terms used in 810 KAR Chapter 2.

Section 1. Definitions.

(1) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.

(2) "Arrears" means sums due by a licensee as reflected by his or her account with the horsemen's bookkeeper, including subscriptions, jockey fees, driver fees, forfeitures, and any default incident to KAR Title 810.

(3) "Association" is defined by KRS 230.210(5).

(4) "Authorized agent" means in flat racing a person currently licensed as an agent for a licensed owner, jockey, or jockey apprentice by virtue of notarized appointment of agency filed with the commission.

(5) "Claiming race" means a race in which ownership of a horse participating in the race ***can[may]*** be transferred in conformity with 810 KAR 4:050 and 810 KAR 5:030.

(6) "Closing" means the time published by the association after which entries for a race ***are not[will not be]*** accepted by the racing secretary.

(7) "Commission" ~~is defined by~~ ***by[in]*** 810 KAR 6:001. [means:

~~(a) The Kentucky Horse Racing Commission if used in the context of the administrative agency governing horse racing and pari-mutuel wagering; or~~

~~(b) The amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615, if used in the context of pari-mutuel wagering.]~~

(8) "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.

(9) "Dash" means in standardbred racing a race in a single trial or in a series of two (2) or three (3) races governed by one (1) entry fee for the series, in which a horse starts in all dashes with positions drawn for each dash and the number of purse distributions or payouts awarded exceeds the number of starters in the dash.

(10) "Day" means a twenty-four (24) hour period beginning at 12:01 a.m. and ending at mid-

night.

(11) "Declaration" means:

(a) In flat racing, the withdrawal of a horse entered in a race prior to time of closing of entries for the race in conformance with 810 KAR Chapter 4; or[.]

(b) In standardbred racing, the naming of a particular horse as a starter in a particular race.

(12) "Disciplinary action" means action taken by the stewards or the commission for a violation of KRS Chapter 230 or KAR Title 810 and can include:

(a) Refusal to issue or renew a license;

(b) Revocation or suspension of a license;

(c) Imposition of probationary conditions on a license;

(d) Issuance of a written reprimand or admonishment;

(e) Imposition of fines or penalties;

(f) Denial of purse money; or

(g) Forfeiture of purse money.

(13) "Disqualification" means a ruling of the stewards, judges, or the commission revising the order of finish of a race.

(14) "Draw" means the process of determining post positions by lot.

(15) "Driver" means in standardbred racing a person who is licensed to drive a horse in a race.

(16) "Electronic eligibility" means a computer-generated eligibility certificate that records a horse's racing statistics.

(17) "Entry" means the act of nominating a horse for a race in conformance with KAR Title 810.

(18) "Equipment" means in flat racing accoutrements other than ordinary saddle, girth, pad, saddle cloth, and bridle carried by a horse, and includes riding crop, blinkers, tongue strap, muzzle, hood, noseband, bit, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.

(19) "Extended pari-mutuel meeting" means in standardbred racing a meeting or series of meetings, at which no agriculture fair is in progress, with an annual total of more than six (6) days duration and during which pari-mutuel wagering is permitted.

(20) "Field" or "mutuel field" means a single betting interest involving more than one (1) horse that is not a mutuel entry.

(21) "Foul" means an action by a jockey or driver that tends to hinder another jockey, driver, or a horse in the proper running of the race.

(22) "Handicap" means in standardbred racing a race in which allowances are made according to a horse's:

(a) Age;

(b) Sex;

(c) Claiming price; or

(d) Performance.

(23) "Handicap race" means in flat racing a race in which the weights to be carried by the horses are assigned by the association handicapper with the intent of equalizing the chances of winning for all horses entered in the race.

(24) "Handle" means the aggregate of all pari-mutuel pools, excluding refundable wagers.

(25) "Horse" means an equine irrespective of age or sex designation and registered for racing

with the applicable breed registry.

(26) "Ineligible" means a horse or person not qualified under KAR Title 810 or conditions of a race to participate in a specified racing activity.

(27) "Inquiry" means an investigation by the stewards or judges of a contest prior to declaring the result of the contest official.

(28) "Jockey" means a rider currently licensed to ride in races as a jockey, apprentice jockey, amateur jockey, or a provisional jockey permitted by the stewards to ride in three (3) races prior to applying for a license.

(29) "Judge" means a duly appointed racing official with powers and duties **established [specified]** in 810 KAR 2:050 serving at a current meeting in the Commonwealth.

(30) "Licensed premises" is defined **by KRS 230.210 [in 810 KAR 6:001]**. [means:

~~(a) The location and physical plant described in response to question R of the "Commonwealth of Kentucky Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering" filed for racing to be conducted in the following year;~~

~~(b) Real property of an association, if the association receives approval from the commission for a new location at which live racing will be conducted; or~~

~~(c) One (1) facility or real property that is:~~

~~1. Owned, leased, or purchased by a licensed association within a sixty (60) mile radius of the association's track but not contiguous to track premises, upon commission approval; and~~

~~2. For purposes of paragraphs (b) and (c) of this subsection, is not within a sixty (60) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area.]~~

(31) "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative that has been duly issued a currently valid license to participate in racing in the Commonwealth.

(32) "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission to a licensed association for the conduct of live horse racing that:

(a) Begins at 10 a.m. of the first racing day; and

(b) Extends through a period ending one (1) hour after the last scheduled race of the last day.

(33) "Month" means calendar month.

(34) "Nomination" means a subscription or entry of a horse in a stakes or early closing race.

(35) "Nominator" means the person in whose name a horse is entered for a stakes race.

(36) "Objection" means a verbal claim of foul in a race lodged by the horse's jockey, driver, trainer, or owner before the race is declared official.

(37) "Official order of finish" means the order of finish of the horses in a contest as declared official by the stewards or judges.

(38) "Official time" means the elapsed time from the moment the first horse crosses the timing beam until the first horse crosses the finish line.

(39) "Owner" means a person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(40) "Pari-mutuel wagering", "mutuel wagering", or "pari-mutuel system of wagering" is de-

defined **by KRS 230.210**~~[in 810-KAR 6:001]~~. [means a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one or more designated wagering pools and the net pool is returned to the winning patrons.]

(41) "Patron" means an individual present at a track, a licensed premises, or a simulcast facility who observes or wagers on a live or historical horse race.

(42) "Post" means the starting point of a race.

(43) "Post position" means the relative place assigned to each horse, numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

(44) "Post time" means the advertised moment scheduled for the arrival of all horses at the starting point for a race.

(45) "Prize" means the combined total of any cash, premium, trophy, and object of value awarded to the owners of horses according to order of finish in a race.

(46) "Protest" means a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing any act of an owner, trainer, driver, or official prohibited by rules, which, if true, would exclude that horse or driver from racing.

(47) "Purse" means the gross cash portion of the prize for which a race is run.

(48) "Race" means a running contest between horses, ridden by jockeys or driven by drivers at a recognized meeting, during regular racing hours, for a prize.

(49) "Race day" means a period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight in which live racing is conducted by an association.

(50) "Racing official" means a racing commission member, commission staff as duties require, and all association racing department employees, as duties require.

(51) "Registration certificate" means the document, racing permit, or virtual certificate issued by the appropriate breed registry identifying the horse for racing.

(52) "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pari-mutuel pools.

(53) "Rulings" means determinations, decisions, or orders of the stewards, judges, or of the commission duly issued in writing and posted.

(54) "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race in conformance with KAR Title 810.

(55) "Scratch time" means the time set by the racing secretary as a deadline for horsemen to indicate their desire to scratch out of a race.

(56) "Simulcasting" is defined by KRS 230.210~~[(19)]~~.

(57) "Starter" means:

(a) An official who dispatches the horses from the starting gate; or

(b) A horse in a race when the starting gate doors open in front of it at the moment the starter dispatches the horses for the race.

(58) "Steward" means a duly appointed racing official with powers and duties **established**~~[specified]~~ in 810 KAR 2:040 serving at a current meeting in the Commonwealth.

(59) "Subscription" means nomination or entry of a horse in a stakes race.

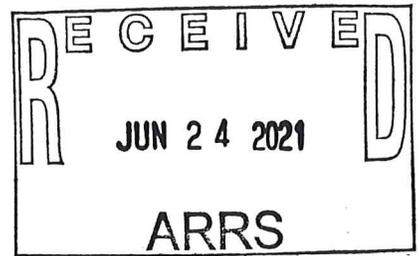
(60) "Suspended" means withdrawal by the steward, judge, or commission of racing privileges.

(61) "Thoroughbred racing" is defined by KRS 230.210~~[(21)]~~.

(62) "Totalizator" means the system, including hardware, software, communications equipment, and electronic devices that accepts and processes the cashing of wagers, calculates the odds and prices of the wagers, and records, displays, and stores pari-mutuel wagering information.

(63) "Year" means twelve (12) consecutive months beginning with January and ending with December.

CONTACT PERSON: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email jennifer.wolsing@ky.gov.



Andy Beshear
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Secretary

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Executive Director

Jonathan Rabinowitz
Chairman

June 24, 2021

VIA ELECTRONIC MAIL

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 810 KAR 2:001
810 KAR 3:001 ✓
810 KAR 4:001
810 KAR 5:001
810 KAR 6:001
810 KAR 6:010
810 KAR 6:030

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the ordinary administrative regulations: 810 KAR 2:001, 810 KAR 3:001, 810 KAR 4:001, 810 KAR 5:001, 810 KAR 6:001, 810 KAR 6:010, and 810 KAR 6:030, the Kentucky Horse Racing Commission proposes the attached suggested substitutes to these ordinary administrative regulations.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Jennifer Wolsing
General Counsel



An Equal Opportunity Employer M/F/D

SUGGESTED SUBSTITUTE ORDINARY ONLY

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 3:001. Definitions for 810 KAR Chapter 3.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) ~~authorizes~~grants the Kentucky Horse Racing Commission ~~to~~(the "commission") ~~[commission the authority to]~~ regulate conditions under which horse racing is conducted in Kentucky. KRS 230.260(8) ~~authorizes~~grants the commission ~~[the authority]~~ to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. This administrative regulation defines the terms used in 810 KAR Chapter 3.

Section 1. Definitions.

(1) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.

(2) "Allowance race" means a race in which contestants receive weight allowance based on performance or winnings as stipulated in the conditions of the race.

(3) "ARCI" means the Association of Racing Commissioners International.

(4) "Association" is defined by KRS 230.210~~[(5)]~~.

(5) "Authorized agent" means in flat racing any person currently licensed as an agent for a licensed owner, jockey, or jockey apprentice by virtue of notarized appointment of agency filed with the commission.

(6) "Claiming race" means a race in which ownership of a horse participating in the race ~~can~~may be transferred in conformity with 810 KAR 4:050 and 810 KAR 5:030

(7) "Commission" ~~is defined by~~is defined by/in 810 KAR 6:001. ~~[means:~~

~~(a) The Kentucky Horse Racing Commission as defined by KRS 230.210(16) if used in the context of the administrative agency governing horse racing and pari-mutuel wagering; or~~

~~(b) The amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615, if used in the context of pari-mutuel wagering.]~~

(8) "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.

(9) "Coupled entry" means two (2) or more horses in a race that are treated as a single betting interest for pari-mutuel wagering purposes.

(10) "Day" means any twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight.

(11) "Directive" means an official order issued by the commission or the executive director.

(12) "Draw" means the process of determining post positions by lot.

(13) "Driver" means in standardbred racing a person who is licensed to drive a horse in a race.

(14) "Early closing race" means in standardbred racing a race for a definite amount of money in which entries close at least six (6) weeks prior to the race.

(15) "Electronic eligibility" means a computer-generated eligibility certificate that records a horse's racing statistics.

(16) "Entry" means the act of nominating a horse for a race in conformance with KAR Title 810.

(17) "Equipment" means in flat racing accoutrements other than ordinary saddle, girth, pad, saddle cloth, and bridle carried by a horse, and includes whip, blinkers, tongue strap, muzzle, hood, noseband, bit, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.

(18) "Horse" means any equine irrespective of age or sex designation and registered for racing with the applicable breed registry.

(19) "Ineligible" means a horse or person not qualified under KAR Title 810 or conditions of a race to participate in a specified racing activity.

(20) "Jockey" means a rider currently licensed to ride in races as a jockey, apprentice jockey, amateur jockey, or a provisional jockey permitted by the stewards to ride in three (3) races prior to applying for a license.

(21) "Judge" means a duly appointed racing official with powers and duties **established[specified]** in 810 KAR 2:050 serving at a current meeting in the Commonwealth.

(22) "Lessee" means a licensed owner whose interest in a horse is a leasehold.

(23) "Licensee" means an individual, firm, association, partnership, corporation, limited liability company, trustee, or legal representative that has been duly issued a currently valid license to participate in racing in the Commonwealth.

(24) "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission to a licensed association for the conduct of live horse racing **that:**

(a) Begins[- A meeting shall begin] at 10 a.m. of the first racing day; and

(b) Extends[extend] through a period ending one (1) hour after the last scheduled race of the last day.

(25) "Mutuel entry" means a single betting interest involving two (2) or more horses entered in the same race and joined for pari-mutuel purposes because of common ties as to ownership or training so that a wager on one (1) horse joined in a mutuel entry is a wager on all horses joined in the same mutuel entry.

(26) "Nominal change in ownership" means the sale, pledge, encumbrance, execution of an option agreement, or any other transfer of less than five (5) percent of the equity securities or other ownership interest of a partnership, association, corporation, limited liability company, or other legal entity holding a license issued by the commission.

(27) "Owner" means any person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(28) "Pari-mutuel wagering," "mutuel wagering," or "pari-mutuel system of wagering" **is defined by KRS 230.210[in 810 KAR 6:001].**~~[each means a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one (1) or more designated wagering pools and the net pool is returned to the winning patrons.]~~

(29) "Protest" means a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing any act of an owner, trainer, driver, or official prohibited by rules which, if true, would exclude that horse or driver from racing.

(30) "Purse" means the gross cash portion of the prize for which a race is run.

(31) "Race" means a running contest between horses ridden by jockeys or driven by drivers at a recognized meeting, during regular racing hours, for a prize.

(32) "Racing official" means a racing commission member, commission staff, as duties require, and all association racing department employees, as duties require.

(33) "Result" means the part of the official order of finish in a race used to determine the parimutuel payoff of pari-mutuel pools.

(34) "Ruled off" means denial of entrance to premises of any association under jurisdiction of the commission.

(35) "Rulings" means all determinations, decisions, or orders of the stewards or of the commission duly issued in writing and posted.

(36) "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race.

(37) "Simulcasting" is defined by KRS 230.210~~[(19)]~~.

(38) "Steward" means a duly appointed racing official with powers and duties ***established[specified]*** in 810 KAR 2:040 serving at a current meeting in the Commonwealth.

(39) "Substantial change in ownership" means the sale, pledge, encumbrance, execution of an option agreement, or any other transfer of five (5) percent or more of the equity securities or other ownership interest of a partnership, association, corporation, limited liability company, or other legal entity holding a license issued by the commission.

(40) "Suspended" means withdrawal of racing privileges by the stewards or commission.

(41) "Totalizator" means the system, including hardware, software, communications equipment, and electronic devices, that accepts and processes the cashing of wagers, calculates the odds and prices of the wagers, and records, displays, and stores pari-mutuel wagering information.

(42) "USTA" means the United States Trotting Association.

(43) "Workout" means in flat racing the training exercise of a horse on the training track or main track of an association during which the horse is timed for speed over a specified distance.

(44) "Year" means twelve (12) consecutive months beginning with January and ending with December.

CONTACT PERSON: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email Jennifer.wolsing@ky.gov.



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Kerry B. Harvey
Secretary

Marc Guilfoil
Executive Director

Jonathan Rabinowitz
Chairman

June 24, 2021

VIA ELECTRONIC MAIL

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

- Re: 810 KAR 2:001
- 810 KAR 3:001
- 810 KAR 4:001 ✓
- 810 KAR 5:001
- 810 KAR 6:001
- 810 KAR 6:010
- 810 KAR 6:030

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the ordinary administrative regulations: 810 KAR 2:001, 810 KAR 3:001, 810 KAR 4:001, 810 KAR 5:001, 810 KAR 6:001, 810 KAR 6:010, and 810 KAR 6:030, the Kentucky Horse Racing Commission proposes the attached suggested substitutes to these ordinary administrative regulations.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Jennifer Wolsing
General Counsel



An Equal Opportunity Employer M/F/D

SUGGESTED SUBSTITUE *ORDINARY ONLY*

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 4:001. Definitions for 810 KAR Chapter 4.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.215, 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) ~~authorizes~~~~[grants]~~ the Kentucky Horse Racing Commission~~[("commission")]~~~~[commission the authority]~~ to regulate conditions under which thoroughbred racing shall be conducted in Kentucky. KRS 230.260(8) ~~authorizes~~~~[grants]~~ the commission ~~[the authority]~~ to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in Kentucky~~[this state]~~. This administrative regulation defines the terms used in 810 KAR Chapter 4.

Section 1. Definitions.

(1) "Added money" means the amount of money, exclusive of trophy, added into a stakes race by an association, a sponsor, a state-bred program, or other fund, and that is in addition to stakes fees paid by subscribers.

(2) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.

(3) "Allowance race" means a race in which contestants receive weight allowance based on performance or winnings as stipulated in the conditions of the race.

(4) "Also eligible" means in flat racing an eligible horse, properly entered, which is not drawn for inclusion in a race, but which becomes eligible according to preference or lot if another horse is scratched prior to the scratch time deadline.

(5) "Appeal" means a request for the commission to investigate, consider, and review any decision or ruling of a steward ~~[or judge]~~ or official of a meeting.

(6) "Arrears" means all sums due by a licensee as reflected by his or her account with the horsemen's bookkeeper, including subscriptions, jockey fees, ~~[driver fees,]~~ forfeitures, and any default incident to KAR Title 810.

(7) "Association" is defined by KRS 230.210~~[(5)]~~.

(8) "Authorized agent" means in flat racing any person currently licensed as an agent for a licensed owner, jockey, or jockey apprentice by virtue of notarized appointment of agency filed with the commission.

(9) "Calendar days" means consecutive days counted irrespective of number of racing days.

(10) "Claiming race" means a race in which ownership of a horse participating in the race may be transferred in conformity with 810~~[814]~~ KAR 4:050.

(11) "Closing" means the time published by the association after which entries for a race are not accepted by the racing secretary.

(12) "Coggins test" means a blood test used to determine if a horse is positive for Equine Infectious Anemia.

(13) "Commission" is defined ~~by~~**[in]** 810 KAR 6:001. ~~[means:~~

~~(a) The Kentucky Horse Racing Commission (formerly known as the Kentucky Horse Racing Authority if used in the context of the administrative agency governing horse racing and pari-mutuel wagering; and~~

~~(b) The amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615, if used in the context of pari-mutuel wagering.]~~

(14) "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.

(15) "Coupled entry" means two (2) or more horses in a race that are treated as a single betting interest for pari-mutuel wagering purposes.

(16) "Day" means any twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight.

(17) "Declaration" means in flat racing the withdrawal of a horse entered in a race prior to time of closing of entries for the race in conformance with 810 KAR 4:030.

(18) "Directive" means an official order issued by the commission or the executive director.

(19) "Disciplinary action" means action taken by the stewards or the commission for a violation of KRS Chapter 230 or KAR Title 810 and can include:

(a) Refusal to issue or renew a license;

(b) Revocation or suspension of a license;

(c) Imposition of probationary conditions on a license;

(d) Issuance of a written reprimand or admonishment;

(e) Imposition of fines or penalties;

(f) Denial of purse money;

(g) Forfeiture of purse money; or

(h) Any combination of paragraphs (a) through (g) of this subsection.

(20) "Disqualification" means a ruling of the stewards~~[-judges,]~~ or the commission revising the order of finish of a race.

(21) "Draw" means the process of determining post positions by lot.

(22) "Entry" means the act of nominating a horse for a race in conformance with KAR Title 810.

(23) "Equipment" means in flat racing accoutrements other than ordinary saddle, girth, pad, saddle cloth, and bridle carried by a horse, and includes riding crop, blinkers, tongue strap, muzzle, hood, noseband, bit, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.

(24) "Field" or "mutuel field" means a single betting interest, which is not a mutuel entry, involving more than one (1) horse.

(25) "Forfeit" means money due by a licensee because of an error, fault, neglect of duty, breach of contract, or alternative ruling of the stewards~~[-judges,]~~ or the commission.

(26) "Foul" means any action by any jockey ~~[or driver]~~ that tends to hinder another jockey or any horse in the proper running of the race.

(27) "Handicap race" means in flat racing a race in which the weights to be carried by the horses are assigned by the association handicapper with the intent of equalizing the chances of winning for all horses entered in the race.

(28) "Horse" means any equine irrespective of age or sex designation and registered for racing with the applicable breed registry.

(29) "Ineligible" means a horse or person not qualified under Title 810 KAR or conditions of a race to participate in a specified racing activity.

(30) "Inquiry" means an investigation by the stewards [~~or judges~~] of a contest prior to declaring the result of the contest official.

(31) "Jockey" means a rider currently licensed to ride in races as a jockey, apprentice jockey, amateur jockey, or a provisional jockey permitted by the stewards to ride in three (3) races prior to applying for a license.

(32) "Lessee" means a licensed owner whose interest in a horse is a leasehold.

(33) "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative that has been duly issued a currently valid license to participate in racing in the Commonwealth.

(34) "Maiden" means in flat racing, a horse that has never won a race at a recognized meeting in any country.

(35) "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission to a licensed association for the conduct of live horse racing ***that:***

(a) [-A meeting] Begins at 10 a.m. of the first racing day; and

(b) Extends [extend] through a period ending one (1) hour after the last scheduled race of the last day.

(36) "Month" means calendar month.

(37) "Mutuel entry" means a single betting interest involving two (2) or more horses entered in the same race and joined for pari-mutuel purposes because of common ties as to ownership or training so that a wager on one (1) horse joined in a mutuel entry is a wager on all horses joined in the same mutuel entry.

(38) "Nominator" means the person in whose name a horse is entered for a stakes race.

(39) "Objection" means a verbal claim of foul in a race lodged by the horse's jockey, [~~driver,~~] trainer, or owner before the race is declared official.

(40) "Official order of finish" means the order of finish of the horses in a contest as declared official by the stewards [~~or judges~~].

(41) "Official time" means the elapsed time from the moment the first horse crosses the timing beam until the first horse crosses the finish line.

(42) "Owner" means any person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(43) "Pari-mutuel wagering", "mutuel wagering", or "pari-mutuel system of wagering" is defined ***by KRS 230.210 [in 810 KAR 6:001]***. [~~each means a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one (1) or more designated wagering pools and the net pool is returned to the winning patrons.~~]

(44) "Post" means the starting point of a race.

(45) "Post position" means the relative place assigned to each horse, numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

(46) "Post time" means the advertised moment scheduled for the arrival of all horses at the starting point for a race.

(47) "Protest" means a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing any act of an owner, trainer, ~~driver,~~ or official prohibited by rules, which, if true, would exclude that horse or jockey~~[driver]~~ from racing.

(48) "Purse" means the gross cash portion of the prize for which a race is run.

(49) "Purse race" means any race for which entries close at a time designated by the racing secretary, and for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(50) "Race" means a running contest between horses~~[n]~~, ridden by jockeys ~~[or driven by drivers]~~ at a recognized meeting, during regular racing hours, for a prize.

(51) "Race day" means any period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight in which live racing is conducted by an association.

(52) "Racing official" means a racing commission member, commission staff, as duties require, and all association racing department employees, as duties require.

(53) "Recognized meeting" means any meeting with regularly scheduled live horse races, licensed by and conducted under administrative regulations promulgated by a governmental regulatory body, and conducted with the applicable breed registry.

(54) "Registration certificate" means the document, racing permit, or virtual certificate issued by the appropriate breed registry identifying the horse for racing.

(55) "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pari-mutuel pools.

(56) "Rulings" means all determinations, decisions, or orders of the stewards or of the commission duly issued in writing and posted.

(57) "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race.

(58) "Scratch time" means the time set by the racing secretary as a deadline for horsemen to indicate their desire to scratch out of a race.

(59) "Specimen" means a sample of blood, urine, or other biologic sample taken or drawn from a horse for chemical testing.

(60) "Stakes" mean all fees paid by subscribers to an added-money or stakes race for nominating, eligibility, entrance, or starting, as required by the conditions of the race, with the fees to be included in the purse.

(61) "Stakes race" means a race that closes more than seventy-two (72) hours in advance of its running and for which subscribers contribute money towards its purse

(62) "Starter" means either:

(a) An official who dispatches the horses from the starting gate; or

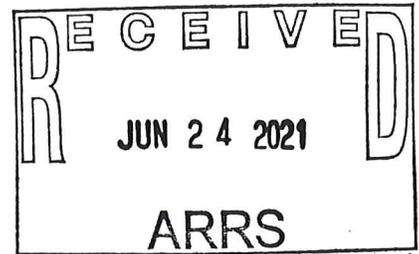
(b) A horse in a race when the starting gate doors open in front of it at the moment the starter dispatches the horses for the race.

(63) "Steward" means a duly appointed racing official with powers and duties established in 810 KAR 2:040 serving at a current meeting in the Commonwealth.

(64) "Subscription" means nomination or entry of a horse in a stakes race.

- (65) ""Suspended" means withdrawal of racing privileges by the stewards or commission.
- (66) "Thoroughbred racing" is defined by KRS 230.210[(21)].
- (67) "Tote" or "tote board" means the totalizator.
- (68) "Unplaced" means a horse that finishes a race outside the pari-mutuel payoff.
- (69) "Walkover" means a race in which the only starter or all starters represent single ownership.
- (70) "Weigh in" means in flat racing the presentation of a jockey to the clerk of scales for weighing after a race.
- (71) "Weigh out" means in flat racing the presentation of a jockey to the clerk of scales for weighing prior to a race.

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Secretary

Marc Guilfoil
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Jonathan Rabinowitz
Chairman

June 24, 2021

VIA ELECTRONIC MAIL

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

- Re: 810 KAR 2:001
- 810 KAR 3:001
- 810 KAR 4:001
- 810 KAR 5:001 ✓
- 810 KAR 6:001
- 810 KAR 6:010
- 810 KAR 6:030

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the ordinary administrative regulations: 810 KAR 2:001, 810 KAR 3:001, 810 KAR 4:001, 810 KAR 5:001, 810 KAR 6:001, 810 KAR 6:010, and 810 KAR 6:030, the Kentucky Horse Racing Commission proposes the attached suggested substitutes to these ordinary administrative regulations.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Jennifer Wolsing
General Counsel



SUGGESTED SUBSTITUTE *ORDINARY ONLY*

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 5:001. Definitions for 810 KAR Chapter 5.

RELATES TO: KRS 230.210, 230.215, 230.260, 230.3615

STATUTORY AUTHORITY: KRS 230.215, 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations establishing conditions under which standardbred~~[thoroughbred]~~ racing shall be conducted in Kentucky. KRS 230.260(8) authorizes the commission to promulgate necessary and reasonable administrative regulations establishing conditions under which horse racing at a horse race meeting shall be conducted in this state. This administrative regulation defines the terms used in 810 KAR Chapter 5.

Section 1. Definitions.

(1) "Added money" means the amount of money, exclusive of trophy, added into a stakes race by an association, a sponsor, a state-bred program, or other fund, and which is in addition to stakes fees paid by subscribers.

(2) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.

(3) "Also eligible" means in standardbred racing:

(a) An eligible horse, properly entered, which is not drawn for inclusion in a race, but which becomes eligible according to preference or lot if another horse is scratched prior to the scratch time deadline; or

(b) The next preferred nonqualifier for the finals, or consolation from a set of elimination trials, which becomes eligible if a finalist is scratched by the judges for a rule violation, or is otherwise eligible if written race conditions permit.

(4) "Appeal" means a request for the commission to investigate, consider, and review any decision or ruling of a ~~[steward,]judge[.]~~ or official of a meeting.

(5) "ARCI" means the Association of Racing Commissioners International.

(6) "Association" is defined by KRS 230.210~~{(5)}~~.

(7) "Claiming race" means a race in which ownership of a horse participating in the race may be transferred in conformity with 810 KAR 5:030.

(8) "Closing" means the time published by the association after which entries for a race will not be accepted by the racing secretary.

(9) "Coggins test" means a blood test used to determine if a horse is positive for Equine Infectious Anemia.

(10) "Commission" is defined in 810 KAR 6:001. ~~[means:~~

~~(a) The Kentucky Horse Racing Commission if used in the context of the administrative agency governing horse racing and pari-mutuel wagering; or~~

(b) ~~The amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615, if used in the context of pari-mutuel wagering.~~

(11) "Condition race" means an overnight race in which eligibility is determined according to specified conditions, ***such as[which may include the following]:***

- (a) Age;
- (b) Sex;
- (c) Earnings;
- (d) Number of starts; or
- (e) Positions of finishes.

(12) "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.

(13) "Coupled entry" means two (2) or more horses in a race that are treated as a single betting interest for pari-mutuel wagering purposes.

(14) "Dash" means ~~[in standardbred racing]~~ a race in a single trial or in a series of two (2) or three (3) races governed by one (1) entry fee for the series, in which:

(a) A horse starts in all races with positions drawn for each race; and

(b) The number of purse distributions or payouts awarded does exceed the number of starters in the race.

(15) "Day" means any twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight.

(16) "Declaration" means ~~[in Standardbred racing]~~ the naming of a particular horse as a starter in a particular race.

(17) "Disqualification" means a ruling of the ~~[stewards,]~~ judges~~;~~ or the commission revising the order of finish of a race.

(18) "Draw" means the process of determining post positions by lot.

(19) "Driver" means ~~[in standardbred racing]~~ a person who is licensed to drive a horse in a race.

(20) "Early closing race" means ~~[in standardbred racing]~~ a race for a definite amount of money in which entries close at least six (6) weeks prior to the race.

(21) "Electronic eligibility" means a computer-generated eligibility certificate that records a horse's racing statistics.

(22) "Elimination heat" means ~~[in standardbred racing]~~ an individual heat of a race in which the contestants qualify for a final heat.

(23) "Entry" means the act of nominating a horse for a race in conformance with KAR Title 810.

(24) "Extended pari-mutuel meeting" means ~~[in standardbred racing]~~ a meeting or series of meetings:

(a) At which ***an agricultural fair is not[no agriculture fair is]*** in progress;

(b) With an annual total of more than six (6) days duration; and

(c) During which pari-mutuel wagering is permitted.

(25) "Field" or "mutuel field" means a single betting interest involving more than one (1) horse that is not a mutuel entry.

(26) "Forfeit" means money due by a licensee because of an error, fault, neglect of duty, breach of contract, or alternative ruling of the ~~[stewards,]~~ judges~~;~~ or the commission.

(27) "Foul" means any action by any ~~[jockey or]~~ driver that tends to hinder another ~~driver~~ ~~[jockey]~~ or any horse in the proper running of the race.

(28) "Futurity" means ~~[in standardbred racing]~~ a stake in which the dam of the competing animal is nominated either when in foal or during the year of foaling.

(29) "Handicap" means ~~[in standardbred racing]~~ a race in which allowances are made according to a horse's:

- (a) Age;
- (b) Sex;
- (c) Claiming price; or
- (d) Performance.

(30) "Horse" means any equine registered for racing with the applicable breed registry, irrespective of age or sex designation.

(31) "Ineligible" means a horse or person not qualified under Title 810 KAR or conditions of a race to participate in a specified racing activity.

(32) "In harness" means ~~[in standardbred racing]~~ that the performance will be to a sulky.

(33) "Judge" means a duly appointed racing official with powers and duties ***established*** ~~[specified]~~ in 810 KAR 2:050 serving at a current meeting in the Commonwealth.

(34) "Late closing race" means ~~[in standardbred racing]~~ a race for a fixed amount of money in which entries close less than six (6) weeks but more than three (3) days before the race is to be contested.

(35) "Lessee" means a licensed owner whose interest in a horse is a leasehold.

(36) "Licensed premises" is defined ***by KRS 230.210*** ~~[in 810 KAR 6:001]~~. [means:

~~(a) The location and physical plant described in response to question 5 of the "Commonwealth of Kentucky Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering" filed for racing to be conducted in the following year;~~

~~(b) Real property of an association, if the association receives approval from the commission for a new location at which live racing will be conducted; or~~

~~(c) One (1) facility or real property that is:~~

~~1. Owned, leased, or purchased by a licensed association within a sixty (60) mile radius of the association's track but not contiguous to track premises, upon commission approval; and~~

~~2. For purposes of paragraphs (b) and (c) of this subsection, is not within a sixty (60) mile radius of another licensed track premises where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area.]~~

(37) "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative that has been duly issued a currently valid license to participate in racing in the Commonwealth.

(38) "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission to a licensed association for the conduct of live horse racing that:

(a) Begins at 10 a.m. of the first racing day; and

(b) Extends through a period ending one (1) hour after the last scheduled race of the last day.

(39) "Month" means calendar month.

(40) "Mutuel entry" means a single betting interest involving two (2) or more horses entered in the same race and joined for pari-mutuel purposes because of common ties as to ownership

or training so that a wager on one (1) horse joined in a mutuel entry is a wager on all horses joined in the same mutuel entry.

(41) "Nomination" means a subscription or entry of a horse in a stakes or early closing race.

(42) "Nominator" means the person in whose name a horse is entered for a stakes race.

(43) "Objection" means a verbal claim of foul in a race lodged by the horse's [jockey] driver, trainer, or owner before the race is declared official.

(44) "Official time" means the elapsed time from the moment the first horse crosses the timing beam until the first horse crosses the finish line.

(45) "Overnight race" means a contest for which entries close at a time set by the racing secretary.

(46) "Owner" means any person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(47) "Pari-mutuel wagering," "mutuel wagering", or "pari-mutuel system of wagering" is defined by KRS 230.210[in 810 KAR 6:001]. ~~[each means a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one (1) or more designated wagering pools and the net pool is returned to the winning patrons.]~~

(48) "Patron" means an individual present at a track, a licensed premises, or a simulcast facility who observes or wagers on a live or historical horse race.

(49) "Post" means the starting point of a race.

(50) "Post position" means the relative place assigned to each horse, numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

(51) "Post time" means the advertised moment scheduled for the arrival of all horses at the starting point for a race.

(52) "Protest" means a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing any act of an owner, trainer, driver, or official prohibited by rules which, if true, would exclude that horse or driver from racing.

(53) "Purse" means the gross cash portion of the prize for which a race is run.

(54) "Purse race" means any race for which entries close at a time designated by the racing secretary, and for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(55) "Race" means a running contest between horses, ~~[ridden by jockeys or]~~ driven by drivers at a recognized meeting, during regular racing hours, for a prize.

(56) "Race day" means any period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight in which live racing is conducted by an association.

(57) "Racing official" means a racing commission member, commission staff, as duties require, and all association racing department employees, as duties require.

(58) "Registration certificate" means the document, racing permit, or virtual certificate issued by the appropriate breed registry identifying the horse for racing.

(59) "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pari-mutuel pools.

(60) "Rulings" means all determinations, decisions, or orders of the judges~~[stewards]~~ or of the commission issued in writing and posted.

(61) "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race in conformance with Title 810 KAR.

(62) "Scratch time" means the time set by the racing secretary as a deadline for horsemen to indicate their desire to scratch out of a race.

(63) "Simulcasting" is defined by KRS 230.210[(19)].

(64) "Stable name" means [~~in standardbred racing~~] a name used other than the actual legal name of an owner or lessee and **that[which]** has been registered with the United States Trotting Association.

(65) "Stake" means [~~in standardbred racing~~] a race **that[which]** will be contested in a year subsequent to **the closing of that year in which[its closing]**:

(a) [~~In which~~]The money given by the association conducting the race is added to the money contributed by the nominators, all of which, except deductions for breeders or nominator's awards, belongs to the winner or winners; and

(b) [~~In which,~~]Except as **established[provided]** in 810 KAR 5:050, Section 6, all of the money contributed by the nominators belongs to the winner or winners.

(66) "Stakes" mean all fees:

(a) Paid by subscribers to an added-money or stakes race for nominating, eligibility, entrance, or starting, as required by the conditions of the race; and

(b) Included in the purse.

(67) "Starter" means either:

(a) An official who dispatches the horses from the starting gate; or

(b) A horse in a race when the starting gate doors open in front of it at the moment the starter dispatches the horses for the race.

(68) "Subscription" means nomination or entry of a horse in a stakes race.

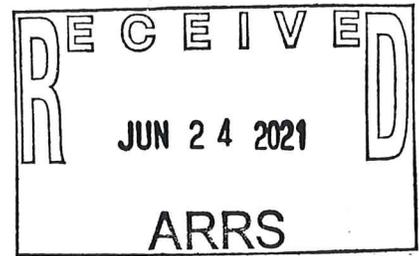
(69) "Sulky" means a dual-wheel racing vehicle with dual shafts not exceeding the height of the horse's withers.

(70) "Suspended" means withdrawal of racing privileges by the judges or commission.

(71) "USTA" means the United States Trotting Association.

(72) "Year" means twelve (12) consecutive months beginning with January and ending with December.

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Chairman

June 24, 2021

VIA ELECTRONIC MAIL

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

- Re: 810 KAR 2:001
- 810 KAR 3:001
- 810 KAR 4:001
- 810 KAR 5:001
- 810 KAR 6:001 ✓
- 810 KAR 6:010
- 810 KAR 6:030

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the ordinary administrative regulations: 810 KAR 2:001, 810 KAR 3:001, 810 KAR 4:001, 810 KAR 5:001, 810 KAR 6:001, 810 KAR 6:010, and 810 KAR 6:030, the Kentucky Horse Racing Commission proposes the attached suggested substitutes to these ordinary administrative regulations.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Jennifer Wolsing
General Counsel



SUGGESTED SUBSTITUTE ORDINARY ONLY

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 6:001. Definitions for 810 KAR Chapter 6.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.215(2), ~~[230.225(5)]~~, 230.260(8), 230.361(1), 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission ~~the~~ **"commission"** to regulate conditions under which ~~horse~~ ~~thoroughbred~~ racing shall be conducted in Kentucky. KRS 230.260(8) authorizes the commission to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in Kentucky ~~this state~~. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating pari-mutuel ~~mutuel~~ wagering on horse races under the pari-mutuel system of wagering. This administrative regulation defines the terms used in 810 KAR Chapter ~~6~~ **4**.

Section 1. Definitions.

(1) "Added money" means cash, exclusive of trophy or other award, added by the association to stakes fees paid by subscribers to form the total purse for a stakes race.

(2) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.

(3) "Appaloosa horse" means a horse duly registered with the Appaloosa Horse Club, Inc., Moscow, Idaho.

(4) "Appaloosa racing" is defined by KRS 230.210(3).

(5) "Arabian horse" means "arabian" as defined by KRS 230.210[a horse duly registered with the Arabian Horse Club Registry of America].

(6) ~~(3)~~ "Arrears" means all sums due by a licensee as reflected by his or her account with the horsemen's bookkeeper, including subscriptions, jockey fees, forfeitures, and any default incident to 810 KAR Chapter ~~6~~ **4**.

(7) ~~(4)~~ "Association" is defined by KRS 230.210(5).

(8) ~~(5)~~ "Authorized agent" means any person currently licensed as an agent for a licensed owner or jockey by virtue of notarized appointment of agency filed with the commission.

(9) ~~(6)~~ "Betting interest" means a single horse, or more than one (1) horse joined as a mutuel entry or joined in a mutuel field, on which a single pari-mutuel wager **can** ~~may~~ be placed.

(10) ~~(7)~~ "Bleeder" means any horse known to have bled internally or from its nostrils during a workout or race.

(11) ~~(8)~~ "Breakage" means the net pool minus payout.

(12) ~~(9)~~ "Breeder" means the owner of the dam of a horse when the horse was foaled. A horse is "bred" at the place of its foaling.

(13) ~~(10)~~ "Calendar days" means consecutive days counted irrespective of number of racing

days.

(14)[(11)] "Carryover" means nondistributed pool monies which are retained and added to a corresponding pool in accordance with 810 KAR 6:020.

(15)[(12)] "Claiming race" means any race in which every horse running in the race can~~may~~ be transferred in conformity with 810 KAR 4:050.

(16)[(13)] "Closing" means the time published by the association after which entries for a race will not be accepted by the racing secretary. ~~]]~~

(17)[(14)] "Commission" means:

(a) The Kentucky Horse Racing Commission if used in the context of the administrative agency governing horse racing and pari-mutuel wagering; ~~or~~~~and~~

(b) If used in the context of pari-mutuel wagering, the amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615, KRS 230.750, and KAR Title 810~~[of the Kentucky Administrative Regulations]~~. This meaning can also refer to "takeout" as defined by subsection (83) of this section~~term may also be defined as "takeout," pursuant to 810 KAR 6:020].~~

(18)[(15)] "Day" means any twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight.

(19)[(16)] "Dead heat" means a finish of a race in which the noses of two (2) or more horses reach the finish line at the same time.

(20)[(17)] "Declaration" means the withdrawal of a horse entered in a race prior to time of closing of entries for the race in conformance with 810 KAR Chapter 6~~[1]~~.

(21)[(18)] "Designated area" means any enclosed area that the commission has approved for the location of terminals used for wagering on ~~an~~ historical horse ~~race~~ races.

(22)[(19)] "Disciplinary action" means action taken by the stewards or the commission for a violation of KRS Chapter 230 or KAR Title 810~~[or Title 811]~~ and can include:

- (a) Refusal to issue or renew a license;
- (b) Revocation or suspension of a license;
- (c) Imposition of probationary conditions on a license;
- (d) Issuance of a written reprimand or admonishment;
- (e) Imposition of fines or penalties;
- (f) Denial of purse money;
- (g) Forfeiture of purse money; or
- (h) Any combination of paragraphs (a) through (g) of this subsection.

(23)[(20)] "Disqualification" means a ruling of the stewards or the commission revising the order of finish of a race.

(24) "Driver" means a person who is licensed to drive a horse in a harness race.

(25)[(21)] "Entry" means the act of nominating a horse for a race in conformance with KAR Title 810.

(26)[(22)] "Equipment" means accoutrements other than ordinary saddle, girth, pad, saddle cloth, and bridle carried by a horse, and includes whip, blinkers, tongue strap, muzzle, hood, noseband, bit, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.

(27)[(23)] "Exhibition race" means a race between horses of diverse ownership for which a purse is offered by the association, but on which ~~[no]~~ pari-mutuel wagering is not permitted.

(28)[(24)] "Exotic wager" means any pari-mutuel wager placed on a live or historical horse race or races other than a win, place, or show wager placed on a live horse race.

(29)[(25)] "Field" or "mutuel field" means a single betting interest involving more than one (1) horse that is not a mutuel entry.

(30)[(26)] "Forfeit" means money due by a licensee because of an error, fault, neglect of duty, breach of contract, or alternative ruling of the stewards or the commission.

(31)[(27)] "Free handicap" means a handicap for which a[no] nominating fee is **not** required to be weighted, but an entrance or starting fee can[may] be required for starting in the race.

(32)[(28)] "Handicap race" means a race in which the weights to be carried by the horses are assigned by the association handicapper with the intent of equalizing the chances of winning for all horses entered in the race.

(33)[(29)] "Handle" means the aggregate of all pari-mutuel pools, excluding refundable wagers.

(34)[(30)] "Historical horse race" means any horse race that:

(a) Was previously run at a licensed pari-mutuel facility located in the United States;

(b) Concluded with official results; and

(c) Concluded without scratches, disqualifications, or dead-heat finishes.

(35)[(31)] "Horse" means any equine (including and designated as a mare, filly, stallion, colt, ridgeling, or gelding)~~[a thoroughbred registered with The Jockey Club irrespective of age or sex designation].~~

(36)[(32)] "Ineligible" means a horse or person not qualified under 810 KAR Chapter 6[4] or conditions of a race to participate in a specified racing activity.

(37)[(33)] "Initial seed pool" means a nonrefundable pool of money ~~[funded by]~~ that can[may] be funded by an association in [an amount sufficient] order to ensure that a patron will be paid the minimum amount required on a winning wager on an historical horse race in the event of a minus pool.

(38)[(34)] "Jockey" means a rider currently licensed to ride in races other than harness races as a jockey, apprentice jockey, amateur jockey, or a provisional jockey permitted by the stewards to ride in three (3) races prior to applying for a license.

(39) "Judge" means a duly appointed racing official with powers and duties **established[specified]** in 810 KAR 2:050 serving at a current meeting in the Commonwealth.

(40)[(35)] "Lessee" means a licensed owner whose interest in a horse is a leasehold.

(41)[(36)] "Licensed premises" **is defined by KRS 230.210[means:**

(a) For facilities in operation as of 2010;~~[The] [the location and physical plant described in] [response to question P of the "Commonwealth of Kentucky] [the "Kentucky Horse Racing Commission Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering" filed for racing to be conducted in 2010;~~

(b) Real property of an association, if the association receives approval from the commission after 2010 for a new location at which live racing will be conducted; or

(c) One (1) facility or real property that is:

1. Owned, leased, or purchased by a licensed association within a sixty (60) mile radius of the association's track but not contiguous to track premises, upon commission approval; and

2. Not~~[For purposes of paragraphs (b) and (c) of this subsection, is not]~~**[within a sixty (60)**

~~mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track of simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area].~~

(42)[(37)] "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative that has been duly issued a currently valid license to participate in racing in the Commonwealth.

(43)[(38)] "Maiden" means a horse **that[which]** has never won a race on the flat at a recognized meeting in any country. A maiden **that[which]** was disqualified after finishing first remains a maiden. Race conditions referring to maidens shall be interpreted as meaning maidens at the time of starting.

(44)[(39)] "Match race" means a race **that is** between two (2) horses **and** for which **[no]** other horses are **not** eligible.

(45)[(40)] "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission to a licensed association for the conduct of live horse racing that:

(a) Begins at 10 a.m. of the first racing day; and

(b) Extends through a period ending one (1) hour after the last scheduled race of the last day.

(46)[(41)] "Minus pool" means a pari-mutuel pool in which the amount of money to be distributed on winning wagers exceeds the amount of money contained in ~~[the net pool]~~ that pari-mutuel pool.

(47)[(42)] "Month" means calendar month.

(48)[(43)] "Mutuel entry" means a single betting interest involving two (2) or more horses entered in the same race and joined for pari-mutuel purposes because of common ties as to ownership or training so that a wager on one (1) horse joined in a mutuel entry is a wager on all horses joined in the same mutuel entry.

(49)[(44)] "Net pool" means the total amount wagered less refundable wagers and takeout.

(50)[(45)] "Nomination" means a subscription or entry of a horse in a stakes or early closing race.

(51)[(46)] "Nominator" means the person in whose name a horse is entered for a race.

(52)[(47)] "Owner" means any person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(53)[(48)] "Pari-mutuel wagering," "mutuel wagering", or "pari-mutuel system of wagering" **is defined by KRS 230.210[each means a system or method of wagering previously or hereafter approved by the commission in which one (1) or more patrons wager on a horse race or races, whether live, simulcast, or previously run. Wagers shall be placed in one or more wagering pools, and wagers on different races or sets of races may be pooled together. Patrons may establish odds or payouts, and winning patrons share in amounts wagered including any carryover amounts, plus any amounts provided by an association less any deductions required, as approved by the racing commission and permitted by law. Pools may be paid out incrementally over time as approved by the commission]**~~[are wagering among themselves and not against the association and amounts wagered are placed in one or more designated wagering pools and the net pool is returned to the winning patrons].~~

(54) "Pari-mutuel pool" means any pool into which pari-mutuel wagers made by patrons are

placed. For every wager placed into a pari-mutuel pool by a patron, that patron is eligible to receive at least a minimum payout on a winning wager.

(55)[(49)] "Patron" means an individual present at a track, licensed premises, or a simulcast facility who observes or wagers on [a] live or historical horse ~~[race]~~ races.

(56)[(50)] "Payout" means the amount of the net pool payable to an individual patron on his or her winning wager.

(57)[(51)] "Place," if used in the context of a single position in the order of finish in a race, means second; if used in the context of pari-mutuel wagering, a "place" wager means one involving a payoff on a betting interest **that[which]** finished first or second in a race; **or** if used in the context of multiple positions in the order of finish in a race, "place or placing" means finishing first or second.

(58)[(55)] "Player-funded pool" means a pool of money funded by patrons wagering on a live or historical horse race or races that is only used to ensure that a patron will receive a payout on a winning wager in the event of a "minus pool" as defined in this **administrative** regulation.

(59)[(52)] "Post" means the starting point of a race.

(60)[(53)] "Post position" means the relative place assigned to each horse, numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

(61)[(54)] "Post time" means the advertised moment scheduled for the arrival of all horses at the starting point for a race.

(62)[(55)] "Prize" means the combined total of any cash, premium, trophy, and object of value awarded to the owners of horses according to order of finish in a race.

(63)[(56)] "Purse" means the gross cash portion of the prize for which a race is run.

(64) "**Quarter horse**" **is defined by KRS 230.210[means a horse registered with the American Quarter Horse Association of Amarillo, Texas].**

(65)[(57)] "Purse race" means any race for which entries close at a time designated by the racing secretary, and for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(66)[(58)] "Race" means a running contest between ~~[thoroughbreds]~~ horses, ridden by jockeys or driven by drivers, over a prescribed course free of obstacles or jumps, at a recognized meeting, during regular racing hours, for a prize.

(67)[(59)] "Race day" means any period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight in which live racing is conducted by an association.

(68)[(60)] "Racing official" means a racing commission member, commission staff as duties require, and all association racing department employees, as duties require.

(69)[(61)] "Recognized meeting" means any meeting with regularly scheduled live horse races for thoroughbreds on the flat, licensed by and conducted under administrative regulations promulgated by a governmental regulatory body, to include foreign countries **that[which]** are regulated by a racing authority **that[which]** has reciprocal relations with The Jockey Club and whose race records can be provided to an association by The Jockey Club.

(70)[(62)] "Registration certificate" means, with respect to thoroughbreds:

(a) The document issued by The Jockey Club certifying the name, age, color, sex, pedigree, and breeder of a horse as registered by number with The Jockey Club; or

(b) The document known as a "racing permit" issued by The Jockey Club in lieu of a registration certificate if a horse is recognized as a thoroughbred for racing purposes in the United

States, but is not recognized as a thoroughbred for breeding purposes insofar as registering its progeny with the Jockey Club.

(71)[(63)] "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pari-mutuel pools.

(72)[(64)] "Rulings" means all determinations, decisions, or orders of the stewards or of the commission duly issued in writing and posted.

(73)[(65)] "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries for the race in conformance with KAR Title 810.

(74)[(66)] "Scratch time" means the time set by the racing secretary as a deadline for horsemen to indicate their desire to scratch out of a race.

(75)[(67)] "Secretary" means the duly appointed and currently serving secretary of the commission.[]

~~(68) "Seed pool" means a pool of money funded by patrons wagering on an historical horse race that is used to ensure that all patrons are paid the minimum payout on winning wagers.]~~

(76) "Simulcasting" is defined by KRS 230.210.

(77)[(69)] "Specimen" means a sample of blood, urine, or other biologic sample taken or drawn from a horse for chemical testing.

(78)[(70)] "Stakes" means all fees:

(a) Paid by subscribers to an added-money or stakes race for nominating, eligibility, entrance, or starting, as **[may be]** required by the conditions of the race; and

(b) Included in the purse.

(79)[(71)] "Stakes race" means a race that closes more than seventy-two (72) hours in advance of its running and for which subscribers contribute money towards its purse, or a race for which horses are invited by an association to run for a guaranteed purse of \$50,000 or more without payment of stakes. With the exception of stakes races in North America, "stakes race" **excludes[shall exclude]** races not listed by The Jockey Club Information System International Cataloguing Standards, Part One (1).

(80)[(72)] "Starter" means a horse in a race when the starting-gate doors open in front of it at the moment the starter dispatches the horses for a race.

(81)[(73)] "Steward" means a duly appointed racing official with powers and duties specified in 810 KAR 2:040 serving at a current meeting in the Commonwealth.

(82)[(74)] "Subscription" means nomination or entry of a horse in a stakes race.

(83)[(75)] "Takeout" **means "commission" as defined by subsection (17)(b) of this section[is defined in Section 1(17)(b) of this regulation as "Commission."]**~~[means the total amount of money, excluding breakage and any amounts allocated to a seed pool, withheld from each pari-mutuel pool, as authorized by KRS 230.3615 and 810 KAR Chapter 1.]~~

(84)[(76)] "Terminal" means any self-service totalizator machine or other mechanical equipment used by a patron to place a pari-mutuel wager on a live or historical horse race or races.

(85)[(77)] "Thoroughbred racing" is defined by KRS 230.210[(21)].

(86)[(78)] "Totalizator" means the system, including hardware, software, communications equipment, and electronic devices that accepts and processes the cashing of wagers, calculates the odds and prices of the wagers, and records, displays, and stores pari-mutuel wagering information.

(87)[(79)] "Unplaced" means a horse that finishes a race outside the pari-mutuel payoff.

(88) "Wagering pool" means "pari-mutuel pool" as defined by subsection (54) of this subsection [is defined in Section 1 of this administrative regulation as pari-mutuel pool].

(89)[(80)] "Walkover" means a race in which the only starter or all starters represent single ownership.

(90)[(81)] "Weigh in" means the presentation of a jockey to the clerk of scales for weighing after a race.

(91)[(82)] "Weigh out" means the presentation of a jockey to the clerk of scales for weighing prior to a race.

(92)[(83)] "Weight for age" means the standard assignment of pounds to be carried by horses in races at specified distances during specified months of the year, scaled according to the age of the horse as **established[set-out]** in 810 KAR 4:020.

(93)[(84)] "Workout" means the training exercise of a horse on the training track or main track of an association during which the horse is timed for speed over a specified distance.

(94)[(85)] "Year" means twelve (12) consecutive months beginning with January and ending with December.

Section 2. Severability. If any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

CONTACT PERSON: Jennifer Wolsing, General Counsel, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email jennifer.wolsing@ky.gov.



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June 24, 2021

VIA ELECTRONIC MAIL

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

- Re: 810 KAR 2:001
- 810 KAR 3:001
- 810 KAR 4:001
- 810 KAR 5:001
- 810 KAR 6:001
- 810 KAR 6:010 ✓
- 810 KAR 6:030

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the ordinary administrative regulations: 810 KAR 2:001, 810 KAR 3:001, 810 KAR 4:001, 810 KAR 5:001, 810 KAR 6:001, 810 KAR 6:010, and 810 KAR 6:030, the Kentucky Horse Racing Commission proposes the attached suggested substitutes to these ordinary administrative regulations.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Jennifer Wolsing
General Counsel



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SUGGESTED SUBSTITUTE ORDINARY ONLY

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 6:010. Exotic wagering.

RELATES TO: KRS 230.300, 230.361, 230.3615, 230.370, 230.398, 230.750

STATUTORY AUTHORITY: KRS 230.210, 230.215, 230.361, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission ~~[(the "commission")]~~ to regulate conditions under which horse racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating pari-mutuel wagering on horse races under the pari-mutuel system of wagering. This administrative regulation establishes the procedures and regulations governing exotic wagering under KRS Chapter 230 and KAR Title 810.

Section 1. All Pari-mutuel Wagers on a Historical Horse Race or Races ~~Shall be~~Are Exotic Wagers. All pari-mutuel wagers other than win, place, or show wagers on a live horse race ~~shall be~~are exotic wagers.

Section 2. Exotic Wagers ~~Shall~~to be Approved by Commission.

(1) An association shall not offer an exotic wager on any live or historical horse race or races without the prior written approval of the commission.

(2) An association making a request to offer an exotic wager on a live or historical horse race may make an oral presentation to the commission regarding the wager prior to the commission deciding on the request.

(a) The presentation shall be made by the association during a meeting of the commission.

(b) The presentation shall be limited to the information contained in the written request and any supplemental information relevant to the commission's determination of the suitability of the wager.

(c) The commission may require an association to clarify or otherwise respond to questions concerning the written request as a condition of approval for the exotic wager.

(3) The commission may request additional information from an association regarding the exotic wager if the additional information would assist the commission in deciding whether ~~or not~~ to approve it.

(4) In reviewing a written request for an exotic wager, the commission may consider any information, data, reports, findings, or other factors available ~~that the commission~~which it considers important or relevant to its determination ~~regarding~~of whether the wager ~~approval~~should be approved.

(5) The commission or its designee shall review and test the exotic wager and shall give its approval if it is satisfied that ~~the~~ wager:

(a) ~~Will~~**[The wager does]** not adversely affect the safety or integrity of horse racing or pari-mutuel wagering in the Commonwealth; and

(b) ~~[The wager]~~Complies with KRS Chapter 230 and KAR Title 810.

(6) The commission shall notify the association if **the commission**~~[it]~~ determines that the criteria **established**~~[set forth]~~ in subsection (5) of this section are no longer being met and **the commission**~~[it]~~ intends to withdraw approval of a particular exotic wager.

(7) An association shall not implement any change or modification to the practices, procedures, or representations upon which the approval of the exotic wager was based without the prior written approval of the commission.

Section 3. Exotic Wagers on a Live Horse Race or Races.

(1) Except as **established**~~[set forth]~~ in subsection (2) of this section, an association shall submit a written request to the commission for permission to offer any exotic wager on a live horse race or races, which shall include a detailed description of the rules that apply to the pari-mutuel wager and the method of calculating payouts.

(2) If the rules have not been modified since the wager was approved by the commission, an association shall not be required to seek the commission's approval to offer the following previously approved exotic wagers on live horse races: Exacta, Perfecta, Quinella, Trifecta, Superfecta, Double Perfecta, Big Q, Twin Trifecta, Daily Double, Super High 5, Pick-3, Pick-4, and Pick-6.

Section 4. Exotic Wagers on a Historical Horse Race or Races.

(1) An association shall submit a written request to the commission for permission to offer any exotic wager on a historical horse race or races, which shall include:

(a) The types, number, and denominations of pari-mutuel wagers to be offered;

(b) A detailed description of the rules that apply to the pari-mutuel wager, the trust account, if applicable, and the player-funded pool or pools, if applicable, as well as the method of calculating payouts;

(c) The days and hours of operation during which wagering on historical horse races will be offered;

(d) A detailed description of the proposed designated area and the terminal or terminals on which the pari-mutuel wagers will be made, including:

1. An architect's rendering of the proposed designated area which describes the size, construction, layout, capacity, number of terminals, and location of surveillance and other security equipment;~~[;]~~ and

2. At least one (1) photograph of the designated area **once**~~[when]~~ construction is completed;

(e) The practices and procedures that will ensure the security, safety, and comfort of patrons in the designated area;

(f) The manufacturer, make, and model of the terminal, including a copy of all literature supplied by the manufacturer of the terminal;

(g) The maintenance and repair procedures that will ensure the integrity of the terminals;

(h) A complete list of individuals who are authorized to examine and repair the terminals for any reason; and

(i) A memorandum ~~stating~~**[outlining]** the terms of the agreement ~~established~~**[referenced]** in Section 6(2) of this administrative regulation between the association and one **(1)** of the following horsemen's organizations, as applicable:

1. For thoroughbred associations operating historical horse racing, the Kentucky Horsemen's Benevolent and Protective Association, the Kentucky Thoroughbred Association/Kentucky Thoroughbred Owners and Breeders, or their successors;

2. For standardbred associations operating historical horse racing, the Kentucky Harness Horsemen's Association, the Kentucky Harness Association, or their successors;

3. For quarterhorse associations operating historical horse racing, the Kentucky Quarter Horse Racing Association or its successor;

4. For Arabian associations operating historical horse racing, the Arabian Jockey Club, or its successor; and

5. For appaloosa associations operating historical horse racing, a horsemen's organization representing appaloosa racing.

(2)(a) Except as ~~established~~**[set forth]** in paragraph (b) of this subsection, each association that is approved by the commission to offer exotic wagering on historical horse racing shall request, in any application submitted for a license, to conduct live horse racing pursuant to KRS 230.300 and 810 KAR 3:010:

1. No less than 100 percent of the number of racing days initially requested by the association in its application, ~~incorporated by reference in 810 KAR 3:010~~, to conduct racing for the 2010 racing year; and

2. No less than 100 percent of the number of races initially requested by the association in its application, ~~incorporated by reference in 810 KAR 3:010~~, to conduct racing for the 2010 racing year.

(b) An association may apply for less than 100 percent of the number of racing days initially applied for by the association in its application to conduct racing for 2010, or the number of races initially applied for by the association in its application to conduct racing for 2010, if written approval is obtained from the commission, and from one **(1)** of the following horsemen's organizations, as applicable:

1. For thoroughbred associations operating historical horse racing, the Kentucky Horsemen's Benevolent and Protective Association, the Kentucky Thoroughbred Association/Kentucky Thoroughbred Owners and Breeders, or their successors;

2. For standardbred associations operating historical horse racing, the Kentucky Harness Horsemen's Association, the Kentucky Harness Association, or their successors;

3. For quarterhorse associations operating historical horse racing, the Kentucky Quarter Horse Racing Association or its successor;

4. For Arabian associations operating historical horse racing, the Arabian Jockey Club, or its successor; and

5. For appaloosa associations operating historical horse racing, a horsemen's organization representing appaloosa racing.

Section 5. Terminals Used for Wagering on a Historical Horse Race or Races.

(1) Wagering on historical horse races shall be conducted only on terminals approved by the commission as ~~established~~**[set forth]** in ~~Section~~**[Sections]** 2(5) ~~of this administrative regula-~~

tion and **subsection (2) of this section**~~[5(2) of this administrative regulation]~~. The commission shall not require any particular make of terminal.

(2)(a) The commission shall require testing of each terminal used for wagering on historical horse races by an independent testing laboratory to ensure **the terminal's**~~[its]~~ integrity and proper working order.

(b) The independent testing laboratory shall be chosen by the commission, **based on promoting the best interests of racing**, and the expense of the testing shall be paid by the association offering the wagering on historical horse races.

(3) Each terminal for wagering on historical horse races shall display odds or pool amounts that the patron will receive for a winning wager on each pari-mutuel wagering pool.

Section 6. Takeout.

(1) Each association conducting exotic wagering on historical horse races shall deduct a takeout, which shall not exceed the percentages **established**~~[set forth]~~ in KRS 230.3615 or KRS 230.750, as applicable.

(2)(a) Each association shall enter into an agreement with one **(1)** of the following horsemen's organizations, as applicable, to establish the allocation of the takeout on all exotic wagers on historical horse races offered by the association:

1. For thoroughbred associations operating historical horse racing, the Kentucky Horsemen's Benevolent and Protective Association, the Kentucky Thoroughbred Association/Kentucky Thoroughbred Owners and Breeders, or their successors;

2. For standardbred associations operating historical horse racing, the Kentucky Harness Horsemen's Association, the Kentucky Harness Association, or their successors;

3. For quarterhorse associations operating historical horse racing, the Kentucky Quarter Horse Racing Association or its successor;

4. For Arabian associations operating historical horse racing, the Arabian Jockey Club, or its successor; and

5. For appaloosa associations operating historical horse racing, a horsemen's organization representing appaloosa racing.

(b) The agreement shall apply to all exotic wagers on historical horse races offered, or to be offered, by the association during the term of the agreement.

(c)~~(b)~~ The agreement shall include provisions allocating a percentage of the takeout to purses on live races run by the association.

(d)~~(e)~~ Each association shall provide a memorandum outlining the terms of the agreement to the commission.

Section 7. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

CONTACT PERSON: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email jennifer.wolsing@ky.gov.

RECEIVED
7-1-2021



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Chairman

July 1, 2021

VIA ELECTRONIC MAIL

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 810 KAR 6:020 ✓

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the administrative regulation 810 KAR 6:020, the Kentucky Horse Racing Commission proposes the attached suggested substitute to this administrative regulation.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Wolsing".

Jennifer Wolsing
General Counsel

TEAM
KENTUCKY

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SUGGESTED SUBSTITUTE

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission

810 KAR 6:020. Calculation of payouts and distribution of pools.

RELATES TO: KRS 230.210, 230.215, 230.260, 230.361, 230.3615, 230.990

STATUTORY AUTHORITY: KRS 230.215(2), 230.260, 230.361(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the Kentucky Horse Racing Commission ~~[[the "commission"]]~~ the authority to regulate conditions under which horse racing and pari-mutuel wagering thereon shall be conducted in Kentucky~~[the Commonwealth]~~. KRS 230.361(1) requires the commission to promulgate administrative regulations governing wagering under the pari-mutuel system of wagering. This administrative regulation establishes the calculation of payouts and the distribution of pools for pari-mutuel wagering on live horse races.

Section 1. Definitions.

~~(1) ["**Betting interest**"] means a single horse, or more than one (1) horse joined as a mutuel entry or joined in a mutuel field, on which a single pari-mutuel wager may be placed.~~

~~(2) "**Breakage**" means the net pool minus payout.~~

~~(3)~~ "Broken consolation price" means the profit per dollar, plus one (1) dollar, rounded down to the break point.

~~(2) [(4) "**Carryover**" means non-distributed pool monies that are retained and added to a corresponding pool in accordance with KAR Title 810.~~

~~(5)~~ "Consolation payout" means a payout to individuals who do not correctly choose all of the selections in a multiple-pick wager, or a payout to individuals who wager on a horse in a multiple pick wager that is subsequently scratched.

~~(3) [(6)]~~ "Covered betting interest" means a betting interest or combination of betting interests that has been wagered upon.

~~(4) [(7) "**Dead heat**" means a finish of a race in which the noses of two (2) or more horses reach the finish line at the same time.~~

~~(8)~~ "Gross pool" means the sum of all wagers less refunds.

~~(5) [(9)]~~ "Individual" means a natural person, at least eighteen (18) years of age, except does not include any corporation, partnership, limited liability company, trust, or estate.

~~(6) [(10)]~~ "Multi-commission pari-mutuel pool" means a pari-mutuel pool where entities accepting wagers use different takeout rates.

~~(7) [(11) "**Net pool**" means the total amount wagered less refundable wagers and takeout.~~

~~(12) "**Payout**" means the amount of the net pool payable to an individual patron on his or her winning wager.~~

~~(13)~~ "Performance" means a specified number of races on a given race day that constitutes a full card of racing.

~~(8) [(14)]~~ "Profit" means the net pool less the gross amount wagered if using the standard price calculation procedure and the net pool less the net amount wagered if using the net price calculation procedure.

~~(9) [(15)]~~ "Profit split" means to calculate a payout by splitting a pari-mutuel pool equally between each winning combination and dividing each portion by the number of winning tickets.

~~(10) [(16) "**Scratch**" means the withdrawal of a horse entered for a race after the time of closing of entries for the race in conformance with KAR Title 810.~~

~~(17)~~ "Single commission *pari-mutuel* pool" means a pari-mutuel pool where all entities accepting wagers use the same takeout rate.

~~(11)~~~~(18)~~ "Single price pool" means a pari-mutuel pool in which the entire profit is paid to holders of winning tickets after the deduction of the takeout.

~~(12)~~~~(19)~~ "~~Takeout~~" ~~is defined in 810 KAR 6:001, Section 1(17)(b) as "Commission."~~ means the total amount of money, excluding breakage, withheld from each pari-mutuel pool, as authorized by KRS 230.3615 and KAR Title 810.

~~(20)~~ "Unbroken consolation price" means the profit per dollar plus one (1) dollar.

Section 2. General Requirements for Live Horse Races.

(1) All pari-mutuel pools for live races shall be separately and independently calculated and distributed. The takeout shall be deducted from each gross pool as stipulated by KRS 230.3615. The remainder of the pool shall be the net pool for distribution as payoff on winning pari-mutuel wagers.

(2)(a) Single commission pari-mutuel pools may be calculated using either the standard price calculation procedure or the net price calculation procedure.

(b) Multi-commission pari-mutuel pools shall be calculated using the net price calculation procedure.

(3) The standard price calculation procedure shall be as follows:

(a) Single price pools - Win pool

Gross Pool	=	Sum of Wagers on all Betting Interests - Refunds
Takeout	=	Gross Pool x Percent Takeout
Net Pool	=	Gross Pool - Takeout
Profit	=	Net Pool - Gross Amount Bet on Winner
Profit Per Dollar	=	Profit / Gross Amount Bet on Winner
\$1 Unbroken Price	=	Profit Per Dollar + \$1
\$1 Broken Price	=	\$1 Unbroken Price Rounded Down to the Break Point
Total Payout	=	\$1 Broken Price x Gross Amount Bet on Winner
Total Breakage	=	Net Pool - Total Payout

(b) Profit split - Place pool. Profit shall be net pool less gross amount bet on all place finishers. Finishers shall split profit 1/2 and 1/2 (place profit), then divide by gross amount bet on each place finisher for two (2) unique prices.

(c) Profit split - show pool. Profit shall be net pool less gross amount bet on all show finishers. Finishers shall split profit 1/3 and 1/3 and 1/3 (show profit), then divide by gross amount bet on each show finisher for three (3) unique prices.

(4) The net price calculation procedure shall be as follows:

(a) Single price pool - Win pool

Gross Pool	=	Sum of Wagers on all Betting Interests - Refund
Takeout	=	Gross Pool x Percent Takeout for Each Source
Net Pool	=	Gross Pool - Takeout

Net Bet on Winner	=	Gross Amount Bet on Winner x (1 – Percent Takeout)
Total Net Pool	=	Sum of All Sources Net pools
Total Net Bet on Winner	=	Sum of All Sources Net Bet on Winner
Total Profit	=	Total Net Pool - Total Net Bet on Winner
Profit Per Dollar	=	Total Profit / Total Net Bet on Winner
\$1 Unbroken Base Price	=	Profit Per Dollar + \$1 for each source:
\$1 unbroken price	=	\$1 Unbroken Base Price x (1 - Percent Takeout)
\$1 Broken Price	=	\$1 Unbroken Price Rounded Down to the Break Point
Total Payout	=	\$1 Broken Price x Gross Amount Bet on Winner
Total Breakage	=	Net Pool - Total Payout

(b) Profit split - Place pool. Total profit shall be the total net pool less the total net amount bet on all place finishers. Finishers shall split total profit 1/2 and 1/2 (place profit), then divide by total net amount bet on each place finisher for two (2) unique unbroken base prices.

(c) Profit split - Show pool. Total profit shall be the total net pool less the total net amount bet on all show finishers. Finishers shall split total profit 1/3 and 1/3 and 1/3 (show profit), then divide by total net amount bet on each show finisher for three (3) unique unbroken base prices.

(5) Each association shall disclose the following in its license application, **incorporated by reference in 810 KAR 3:010:**

- (a) Which price calculation method it will use for single commission pari-mutuel pools;
- (b) The ticket denominations for each type of pari-mutuel wager;
- (c) The procedures for refunds of pari-mutuel wagers;
- (d) The takeout for each type of pari-mutuel wager;
- (e) Which pari-mutuel wagers will include carryover and consolation pools and the percentages of the net pool assigned to each; and
- (f) For each type of pari-mutuel wagering involving more than one (1) live horse race, the procedures to be used if a race is cancelled.

(6) The individual pools described in this administrative regulation may be given alternative names by each association if prior approval is obtained from the commission.

(7) A mutuel entry or a mutuel field in any race shall be a single betting interest for the purpose of each of the wagers described in this administrative regulation and the corresponding pool calculations and payouts. If either horse in a mutuel entry, or any horse in a mutuel field, is a starter in a race, the entry or the field selection shall remain as the designated selection for any of the wagers described in this administrative regulation and the selection shall not be deemed scratched.

Section 3. Pools Dependent Upon Entries for Live Horse Races.

(1) Except as provided in subsection (3) of this section, when pools are opened for wagering all associations may:

- (a) Offer win wagering on all races with four (4) or more betting interests;
- (b) Offer place wagering on all races with five (5) or more betting interests;
- (c) Offer show wagering on all races with six (6) or more betting interests.

- (d) Offer Quinella wagering on all races with four (4) or more betting interests;
- (e) Offer Exacta wagering on all races with four (4) or more betting interests;
- (f) Offer Trifecta wagering on all races with five (5) or more betting interests;
- (g) Offer Superfecta wagering on all races with six (6) or more betting interests;
- (h) Offer Big Q wagering on all races with three (3) or more betting interests; and
- (i) Offer Super High 5 wagering on all races with seven (7) or more betting interests.

(2) Except as provided in subsection (4) of this section, when pools are opened for wagering, associations shall not offer Twin Trifecta wagering on any races with six (6) or fewer betting interests.

(3) The chief state steward or presiding judge, or his or her designee, may authorize an association to offer a subject wager with less than the number of horses required by this section if:

- (a) Requested by the association; and
- (b) The integrity of the wager would not be affected by the smaller field.

(4) If a horse is scratched by the judges or stewards after wagering has commenced or a horse is prevented from running in a live horse race because of a failure of the starting gate, and the number of actual starters representing different betting interests is reduced below the requirements in subsection (1) or (2) of this section, the association may cancel the affected wagers and refund the entire affected pools with the approval of the Chief State Steward or Presiding Judge, or his or her designee.

(5) In all cases in which the Chief State Steward or Presiding Judge, or his or her designee, authorizes the changes described in subsection (4) or (5) of this section, the association shall provide a written report to the commission within twenty-four (24) hours of the post time of the race explaining the need to cancel the wagering pool.

Section 4. Win Pools.

(1) The amount wagered on the betting interest ***that[which]*** finishes first shall be deducted from the net win pool and the balance remaining shall be the profit. The profit shall be divided by the amount wagered on the betting interest finishing first and the result shall be the profit per dollar wagered to win on that betting interest.

(2) The net win pool shall be distributed as a single price pool in the following precedence based upon the official order of finish:

- (a) To individuals whose selection finishes first, except if there are not any of those wagers, then;
- (b) To individuals whose selection finishes second, except if there are not any of those wagers, then;
- (c) To individuals whose selection finishes third, except if there are not any of those wagers, then;
- (d) The entire pool shall be refunded on win wagers for that race.

(3)(a) If there is a dead heat for first involving horses representing the same betting interest, the win pool shall be distributed as if no dead heat occurred.

(b) If there is a dead heat for first involving horses representing two (2) or more betting interests, the win pool shall be distributed as a profit split.

Section 5. Place Pools.

(1) The amounts wagered to place on the first two (2) betting interests to finish shall be deducted from the net pool and the balance remaining shall be the profit. The profit shall be divided into two (2) equal portions, with each portion assigned to each winning betting interest and divided by the dollar amount wagered to place on that betting interest. The result shall be the profit per dollar wagered to place on that betting interest.

(2) The net place pool shall be distributed in the following precedence based upon the official order of finish:

(a) If horses in a mutuel entry or mutuel field finish in the first two (2) places, as a single price pool to individuals who selected the mutuel entry or mutuel field, otherwise;

(b) As a profit split to individuals whose selection is included within the first two (2) finishers, except if there are not any of those wagers on one (1) of those two (2) finishers, then;

(c) As a single price pool to individuals who selected the one (1) covered betting interest included within the first two (2) finishers, except if there are not any of those wagers, then;

(d) As a single price pool to individuals who selected the third-place finisher, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on place wagers for that race.

(3)(a) If there is a dead heat for first involving horses representing the same betting interest, the place pool shall be distributed as a single price pool.

(b) If there is a dead heat for first involving horses representing two (2) or more betting interests, the place pool shall be distributed as a profit split.

(4)(a) If there is a dead heat for second involving horses representing the same betting interest, the place pool shall be distributed as if no dead heat occurred.

(b) If there is a dead heat for second involving horses representing two (2) or more betting interests, the place pool shall be divided, with one-half (1/2) of the profit distributed to place wagers on the betting interest finishing first and the remainder of the profit distributed equally among place wagers on the betting interests involved in the dead heat for second.

Section 6. Show Pools.

(1) The amounts wagered to show on the first three (3) betting interests shall be deducted from the net pool and the balance remaining shall be the profit. The profit shall be divided into three (3) equal portions, with each portion assigned to each winning betting interest and divided by the amount wagered to show on that betting interest. The result shall be the profit per dollar wagered to show on that betting interest.

(2) The net show pool shall be distributed in the following precedence based on the official order of finish:

(a) If horses in a mutuel entry or mutuel field finish in the first three (3) places, as a single price pool to individuals who selected the mutuel entry or mutuel field, otherwise;

(b) If horses of a mutuel entry or mutuel field finish as two (2) of the first three (3) finishers, the profit shall be divided with two-thirds (2/3) distributed to individuals who selected the mutuel entry or mutuel field and one-third (1/3) distributed to individuals who selected the other betting interest included within the first three (3) finishers, otherwise;

(c) As a profit split to individuals whose selection shall be included within the first three (3) finishers, except if there are not any of those wagers on one (1) of those three (3) finishers, then;

(d) As a profit split to individuals who selected one (1) of the two (2) covered betting interests included within the first three (3) finishers, except if there are not any of those wagers on two (2) of those three (3) finishers, then;

(e) As a single price pool to individuals who selected the one (1) covered betting interest included within the first three (3) finishers, except if there are not any of those wagers, then;

(f) As a single price pool to individuals who selected the fourth-place finisher, except if there are not any of those wagers, then;

(g) The entire pool shall be refunded on show wagers for that race.

(3)(a) If there is a dead heat for first involving two (2) horses representing the same betting interest, the profit shall be divided with two-thirds (2/3) to individuals who selected the first-place finishers and one-third (1/3) distributed to individuals who selected the betting interest finishing third.

(b) If there is a dead heat for first involving three (3) horses representing a single betting interest, the show pool shall be distributed as a single price pool.

(c) If there is a dead heat for first involving horses representing two (2) or more betting interests, the show pool shall be distributed as a profit split.

(4)(a) If there is a dead heat for second involving horses representing the same betting interest, the profit shall be divided with one-third (1/3) distributed to individuals who selected the betting interest finishing first and two-thirds (2/3) distributed to individuals who selected the second-place finishers.

(b) If there is a dead heat for second involving horses representing two (2) betting interests, the show pool shall be distributed as a profit split.

(c) If there is a dead heat for second involving horses representing three (3) betting interests, the show pool shall be divided with one-third (1/3) of the profit distributed to show wagers on the betting interest finishing first and the remainder shall be distributed equally among show wagers on those betting interests involved in the dead heat for second.

(5)(a) If there is a dead heat for third involving horses representing the same betting interest, the show pool shall be distributed as if no dead heat occurred.

(b) If there is a dead heat for third involving horses representing two (2) or more betting interests, the show pool shall be divided with two-thirds (2/3) of the profit distributed to show wagers on the betting interests finishing first and second and the remainder shall be distributed equally among show wagers on those betting interests involved in the dead heat for third.

Section 7. Exacta Pools.

(1) The Exacta shall require the selection of the first two (2) finishers, in their exact order, for a single race.

(2) The net Exacta pool shall be distributed in the following precedence based upon the official order of finish:

(a) If horses of a mutuel entry or mutuel field finish as the first two (2) finishers, as a single price pool to individuals selecting the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise;

(b) As a single price pool to individuals whose combination finished in the correct sequence as the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a single price pool to individuals whose combination included the betting interest that finishes first, except if there are not any of those wagers, then;

(d) As a single price pool to individuals whose combination included the betting interest that finished second, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on Exacta wagers for that race.

(3)(a) If there is a dead heat for first involving horses representing the same betting interest, the Exacta pool shall be distributed as a single price pool to individuals who selected the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish.

(b) If there is a dead heat for first involving horses representing two (2) or more betting interests, the Exacta pool shall be distributed as a profit split.

(4) If there is a dead heat for second involving horses representing the same betting interest, the Exacta shall be distributed as if no dead heat occurred.

(5) If there is a dead heat for second involving horses representing two (2) or more betting interests, the Exacta pool shall be distributed to ticket holders in the following precedence based upon the official order of finish:

(a) As a profit split to individuals combining the first-place betting interest with any of the betting interests involved in the dead heat for second, except if there is only one (1) covered combination, then;

(b) As a single price pool to individuals combining the first-place betting interest with the one (1) covered betting interest involved in the dead heat for second, except if there are not any of those wagers, then;

(c) As a profit split to individuals whose wagers correctly selected the winner for first-place and any of the betting interests which finished in a dead-heat for second-place, except if there are not any of those wagers, then;

(d) The entire pool shall be refunded on Exacta wagers for that race.

Section 8. Quinella Pools.

(1) The Quinella shall require the selection of the first two (2) finishers, irrespective of order, for a single race.

(2) The net Quinella pool shall be distributed in the following precedence based upon the official order of finish:

(a) If horses of a mutuel entry or mutuel field finish as the first two (2) finishers, as a single price pool to individuals selecting the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise;

(b) As a single price pool to individuals whose combination finished as the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a profit split to individuals whose combination included either the first or second place finisher, except if there are not any of those wagers on one (1) of those two (2) finishers, then;

(d) As a single price pool to individuals whose combination included the one (1) covered betting interest included within the first two (2) finishers, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on Quinella wagers for that race.

(3)(a) If there is a dead heat for first involving horses representing the same betting interest, the Quinella pool shall be distributed to individuals selecting the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish.

(b) If there is a dead heat for first involving horses representing two (2) betting interests, the Quinella pool shall be distributed as if no dead heat occurred.

(c) If there is a dead heat for first involving horses representing three (3) or more betting interests, the Quinella pool shall be distributed as a profit split.

(4) If there is a dead heat for second involving horses representing the same betting interest, the Quinella pool shall be distributed as if no dead heat occurred.

(5) If there is a dead heat for second involving horses representing two (2) or more betting interests, the Quinella pool shall be distributed to individuals in the following precedence based upon the official order of finish:

(a) As a profit split to individuals combining the winner with any of the betting interests involved in the dead heat for second, except if there is only one (1) covered combination, then;

(b) As a single price pool to individuals combining the winner with the one (1) covered betting interest involved in the dead heat for second, except if there are not any of those wagers, then;

(c) As a profit split to individuals combining the betting interests involved in the dead heat for second, except if there are not any of those wagers, then;

(d) As a profit split to individuals whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on Quinella wagers for that race.

Section 9. Trifecta Pools.

(1) The Trifecta shall require selection of the first three (3) finishers, in their exact order, for a single race.

(2) For Trifecta price calculations only, the highest placed finisher of any part of a mutuel entry or mutuel field shall be used, eliminating all other parts of that mutuel entry or mutuel field from consideration regardless of finishing order.

(3) The Trifecta pool shall be distributed in the following precedence based upon the official order of finish:

(a) As a single price pool to individuals whose combination finished in correct sequence as the first three (3) betting interests, except if there are not any of those wagers, then;

(b) As a single price pool to individuals whose combination included, in correct sequence, the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a single price pool to individuals whose combination correctly selected the first-place betting interest only, except if there are not any of those wagers, then;

(d) The entire pool shall be refunded on Trifecta wagers for that race.

(4)(a) If less than three (3) betting interests finish and the race is declared official, payouts shall be made based upon the order of finish of those betting interests that finish the race.

(b) The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(5)(a) If there is a dead heat for first involving horses representing three (3) or more betting interests, all of the wagering combinations selecting three (3) betting interests that correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) If there is a dead heat for first involving horses representing two (2) betting interests, both of the wagering combinations selecting the two (2) betting interests that finish in a dead heat, irrespective of order, along with the third place betting interest shall share in a profit split.

(6) If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second shall share in a profit split.

(7) If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third shall share in a profit split.

(8)(a) Trifecta wagering shall not be conducted on any race having fewer than five (5) separate betting interests.

(b) If fewer than five (5) horses start due to a late scratch or malfunction of the starting gate, the Trifecta shall be cancelled and the gross pool shall be refunded.

Section 10. Superfecta Pools.

(1) The Superfecta shall require selection of the first four (4) finishers, in their exact order, for a single race.

(2) The net Superfecta pool shall be distributed in the following precedence based upon the official order of finish:

(a) As a single price pool to individuals whose combination finished in correct sequence as the first four (4) betting interests, except if there are not any of those wagers, then;

(b) As a single price pool to individuals whose combination included in correct sequence, the first three (3) betting interests, except if there are not any of those wagers, then;

(c) As a single price pool to individuals whose combination included, in correct sequence, the first two (2) betting interests, except if there are not any of those wagers, then;

(d) As a single price pool to individuals whose combination correctly selected the first-place betting interest only, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on Superfecta wagers for that race.

(3)(a) If less than four (4) betting interests finish and the race is declared official, payouts shall be made based upon the order of finish of those betting interests completing the race.

(b) The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(4)(a) If there is a dead heat for first involving horses representing four (4) or more betting interests, all of the wagering combinations selecting betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) If there is a dead heat for first involving horses representing three (3) betting interests, all of the wagering combinations selecting the three (3) betting interests that finish in a dead heat, irrespective of order, along with the fourth-place betting interest shall share in a profit split.

(c) If there is a dead heat for first involving horses representing two (2) betting interests, both of the wagering combinations selecting the two (2) dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests shall share in a profit split.

(5)(a) If there is a dead heat for second involving horses representing three (3) or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three (3) betting interests involved in the dead heat for second shall share in a profit split.

(b) If there is a dead heat for second involving horses representing two (2) betting interests, all of the wagering combinations correctly selecting the winner, the two (2) dead-heated betting interests, irrespective of order, and the fourth-place betting interest shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any two (2) of the betting interests involved in the dead heat for third shall share in a profit split.

(7) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three (3) finishers, in correct sequence, along with any interest involved in the dead heat for fourth, shall share in a profit split.

(8) Superfecta wagering shall not be conducted on any race having fewer than six (6) separate betting interests. If fewer than six (6) horses start due to a late scratch or malfunction of the starting gate, Superfecta wagering shall be cancelled and the gross pool shall be refunded.

Section 11. Super High-Five Pools.

(1) The Super High-Five shall require selection of the first five (5) finishers, in their exact order, for a single race.

(2) Unless otherwise stated, the net Super High-Five pool shall be distributed as a single-priced pool to those who have selected all five (5) finishers, in exact order, based upon the official order of finish.

(3)(a) Each association shall disclose in its license application whether it intends to schedule Super High-Five wagering and, if so, shall disclose:

1. The percentage of the pool to be retained for the winning wagers; and

2. The designated amount of any cap to be set on the pool to be retained for the winning wagers.

(b) Any subsequent changes to the Super High-Five scheduling shall require prior approval from the commission or its designee.

(4) If there are no winning wagers selecting all five (5) finishers, in exact order, the entire Super High-Five pool shall be added to the carryover.

(5) If due to a late scratch the number of betting interests in the Super High-Five pool is reduced to fewer than seven (7), the Super High-Five pool shall be cancelled and shall be refunded, except not the Super High-Five carryover pool.

(6) If a betting interest in the Super High-Five pool is scratched from the race, there shall not be any more wagers accepted selecting that scratched runner and all tickets previously sold designating that horse shall be refunded and that money shall be deducted from the gross pool.

(7) If any dead-heat occurs in any finishing position, all wagers selecting either of the runners finishing in a dead heat with the correct runners not finishing in a dead heat shall be winners and share the Super High-Five pool. Payouts shall be calculated by splitting the pool equally between each winning combination, then dividing each portion by the number of winning tickets.

(8) On the final day of a meeting, an association shall make a final distribution of all accumulated carryovers along with the net pool of the Super High-Five pool conducted on the final day of the meeting as a single price pool to:

(a) Individuals with tickets selecting the first five (5) finishers, in exact order, for the designated race, or, if there are not any of those wagers, to;

(b) Individuals with tickets selecting the first four (4) finishers, in exact order, for the designated race, or, if there are not any of those wagers, to;

(c) Individuals with tickets selecting the first three (3) finishers, in exact order, for the designated race, or, if there are not any of those wagers, to;

(d) Individuals with tickets selecting the first two (2) finishers, in exact order, for the designated race, or, if there are not any of those wagers, to;

(e) Individuals with tickets selecting the winner for the designated race, or, if there are not any of those wagers;

(f) All money wagered into the Super High-Five pool that day shall be refunded and any carryover shall be retained and added to the Super High -Five pool on the first racing day of the next meeting.

(9) If, for any reason, the Super High-Five carryover shall be held over to the corresponding Super High-Five pool of a subsequent meeting, the carryover shall be deposited in an interest-bearing account approved by the commission. The Super High-Five carryover plus accrued interest shall then be added to the net Super High-Five pool of the following meeting on a date and performance approved by the commission.

Section 12. Double Pools.

(1) The double pool shall require the selection of the first-place finisher in each of two (2) specified races.

(2) The net double pool shall be distributed in the following precedence based upon the official order of finish:

(a) As a single price pool to individuals whose selections finished first in each of the two (2) races, except if there are not any of those wagers, then;

(b) As a profit split to individuals who selected the first-place finisher in either of the two (2) races, except if there are not any of those wagers, then;

(c) As a single price pool to individuals who selected the one (1) covered betting interest that finished first in either race, except if there are not any of those wagers, then;

(d) As a single price pool to individuals whose selection finished second in each of the two (2) races, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on the double wagers for those races.

(3)(a) If there is a dead heat for first in either of the races involving horses representing the same betting interest, the double pool shall be distributed as if no dead heat occurred.

(b) If there is a dead heat for first in either of the races involving horses representing two (2) or more betting interests, the double pool shall be distributed as a profit split if there is more than one (1) covered winning combination.

(4) If a betting interest in the first half of the double is scratched prior to the close of wagering on the first double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the double pool and refunded.

(5) If a betting interest in the second half of the double is scratched prior to the close of wagering on the first double race, all money wagered on the combinations including the scratched betting interest shall be deducted from the double pool and refunded.

(6) If a betting interest in the second half of the double is scratched after the close of wagering on the first double race, all wagers combining the winner of the first race with the scratched betting interest in the second race shall be allocated a consolation payout.

(a) In calculating the consolation payout, the net double pool shall be divided by the total amount wagered on the winner of the first race and an unbroken consolation price obtained.

(b) The broken consolation price shall be multiplied by the dollar value of wagers on the winner of the first race combined with the scratched betting interest to obtain the consolation payout.

(c) Breakage shall not be included in this calculation.

(d) The consolation payout shall be deducted from the net double pool before calculation and distribution of the winning double payout.

(e) Dead heats including separate betting interests in the first race shall result in a consolation payout calculated as a profit split.

(7) If either of the double races is cancelled prior to the first double race, or the first double race is declared "no contest," the entire double pool shall be refunded on double wagers for those races.

(8)(a) If the second double race is cancelled or declared a "no contest" after the conclusion of the first double race, the net double pool shall be distributed as a single price pool to individuals who selected the winner of the first double race.

(b) If there is a dead heat involving separate betting interests, the net double pool shall be distributed as a profit split.

Section 13. Big Q Pools.

(1) The Big Q shall require selection of the first two (2) finishers, irrespective of order, in each of two (2) designated races.

(a) Each winning ticket for the first Big Q race shall be exchanged for a free ticket on the second Big Q race in order to remain eligible for the second half Big Q pool.

(b) Exchange tickets shall be exchanged at attended ticket windows prior to the second race comprising the Big Q.

(c) There shall not be a monetary reward for winning the first Big Q race.

(d) Each of the designated Big Q races shall be included in only one (1) Big Q pool.

(2) In the first Big Q race only, winning wagers shall be determined using the following precedence based on the official order of finish for the first Big Q race:

(a) If a mutuel entry or mutuel field finishes as the first two (2) finishers, those who selected the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners, otherwise:

(b) Individuals whose combination finished as the first two (2) betting interests shall be winners, except if there are not any of those wagers, then;

(c) Individuals whose combination included either the first- or second-place finisher shall be winners, except if there are not any of those wagers on one (1) of the two (2) finishers, then;

(d) Individuals whose combination included the one (1) covered betting interest included within the first two (2) finishers shall be winners, except if there are not any of those wagers, then;

(e) The entire pool shall be refunded on Big Q wagers for that race.

(3)(a) In the first Big Q race only, if there is a dead heat for first involving horses representing the same betting interest, individuals who selected the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners.

(b) In the first Big Q race only, if there is a dead heat for first involving horses representing two (2) betting interests, the winning Big Q wagers shall be determined as if no dead heat occurred.

(c) In the first Big Q race only, if there is a dead heat for first involving horses representing three (3) or more betting interests, individuals whose combination included any two (2) of the betting interests finishing in the dead heat shall be winners.

(4) In the first Big Q race only, if there is a dead heat for second, the winners shall be those who combined the first place finisher with any of the runners involved in the dead heat for second.

(5) In the second Big Q race only, the entire net Big Q pool shall be distributed to individuals in the following precedence based upon the official order of finish for the second Big Q race:

(a) If a mutuel entry or mutuel field finishes as the first two (2) finishers, as a single price pool to individuals who selected the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise;

(b) As a single price pool to individuals whose combination finished as the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a profit split to individuals whose combination included either the first- or second- place finisher, except if there are not any of those wagers on one (1) of those two (2) finishers, then;

(d) As a single price pool to individuals whose combination included one (1) of the covered betting interests included within the first two (2) finishers, except if there are not any of those wagers, then;

(e) As a single price pool to all exchange ticket holders for that race, except if there are not any of those wagers, then;

(f) In accordance with subsection (2) of this section.

(6)(a) In the second Big Q race only, if there is a dead heat for first involving horses representing the same betting interest, the net Big Q pool shall be distributed to individuals selecting the mutuel entry or mutuel field combined with the next separate betting interest in the official order of finish.

(b) In the second Big Q race only, if there is a dead heat for first involving horses representing two (2) betting interests, the net Big Q pool shall be distributed as if no dead heat occurred.

(c) In the second Big Q race only, if there is a dead heat for first involving horses representing three (3) or more betting interests, the net Big Q pool shall be distributed as a profit split to individuals whose combination included any two (2) of the betting interests finishing in the dead heat.

(7) In the second Big Q race only, if there is a dead heat for second involving horses representing two (2) or more betting interests, the Big Q pool shall be distributed to individuals in the following precedence based upon the official order of finish:

(a) As a profit split to individuals combining the winner with any of the betting interests involved in the dead heat for second, except if there is only one (1) covered combination, then;

(b) As a single price pool to individuals combining the winner with the one (1) covered betting interest involved in the dead heat for second, except if there are not any of those wagers, then;

(c) As a profit split to individuals combining the betting interests involved in the dead heat for second, except if there are not any of those wagers, then;

(d) As a profit split to individuals whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second, then;

(e) As a single price pool to all exchange ticket holders for that race, except if there are not any of those tickets, then;

(f) In accordance with subsection (2) of this section.

(8) If a winning ticket for the first half of the Big Q is not presented for exchange prior to the close of betting on the second half Big Q race, the ticket holder shall forfeit all rights to any distribution of the Big Q pool resulting from the outcome of the second race.

(9) If a betting interest in the first half of the Big Q is scratched, the Big Q wagers including the scratched betting interest shall be refunded.

(10)(a) If a betting interest in the second half of the Big Q is scratched, an immediate public announcement and immediate posting on the association's video monitors and website concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest.

(b) If tickets have not been exchanged prior to the close of betting for the second Big Q race, the ticket holder shall forfeit all rights to the Big Q pool.

(11) If either of the Big Q races is cancelled prior to the first Big Q race, or the first Big Q race is declared "no contest," the entire Big Q pool shall be refunded on Big Q wagers for that race.

(12) If the second Big Q race is cancelled or declared "no contest" after the conclusion of the first Big Q race, the net Big Q pool shall be distributed as a single price pool to wagers selecting the winning combination in the first Big Q race and all valid exchange tickets. If there are not any of those wagers, the net Big Q pool shall be distributed as described in subsection (2) of this section.

Section 14. Pick-(n) Pools.

(1) The Pick-(n) shall require the selection of the first place finisher in each of (n)-specified races designated by the association and approved by the commission where (n) is any number of races greater than 2. Any changes to the Pick-(n) format shall be approved by the commission before implementation.

(2) The Pick-(n) pari-mutuel pool consists of amounts contributed for a win only selection in each of (n) races designated by the association. Each individual placing a Pick-(n) wager shall designate the winning horse in each of (n) races comprising the Pick-(n).

(3) The net Pick-(n) pool shall be apportioned in one the following methods based upon the official order of finish:

(a) Method 1, Pick-(n) with Carryover: The net Pick-(n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick-(n) contests, based upon the official order of finish. If there are not any of those wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests; and the remainder shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick-(n) contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

(b) Method 2, Pick-(n) with 100 percent Carryover: The net Pick-(n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick-(n) contests, based upon the official order of finish. If there are not any of those wagers, then 100 percent of that day's net pool shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick-(n) contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

(c) Method 3, Pick-(n) with Minor Pool and Carryover: The major share of the net Pick-(n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick-(n) contests, based upon the official order of finish. The minor share of the net Pick-(n) pool shall be distributed to those who selected the first place finisher in the second greatest number of Pick-(n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick-(n) contests, the minor share of the net Pick-(n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests; and the major share shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one (1) of the Pick-(n) contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

(d) Method 4, Pick-(n) with No Minor Pool and No Carryover: The net Pick-(n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests, based upon the official order of finish. If there are no winning wagers, the pool shall be refunded.

(e) Method 5, Pick-(n) with Minor Pool and No Carryover: The major share of the net Pick-(n) pool shall be distributed to those who selected the first place finisher in the greatest number of Pick-(n) contests, based upon the official order of finish. The minor share of the net Pick-(n) pool shall be distributed to those who selected the first-place finisher in the second greatest number

of Pick-(n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick-(n) contests, the minor share of the net Pick-(n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares shall be combined for distribution as a single price pool. If there are no winning wagers, the pool shall be refunded.

(f) Method 6, Pick-(n) with Minor Pool and No Carryover: The major share of net Pick-(n) pool shall be distributed to those who selected the first-place finisher in each of the Pick-(n) contests, based upon the official order of finish. The minor share of the net Pick-(n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick-(n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick-(n) contests, the entire net Pick-(n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick-(n) contests, the minor share of the net Pick-(n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick-(n) contests. If there are no winning wagers, the pool shall be refunded.

(g) Method 7, Pick-(n) with Carryover and "Unique Winning Ticket" Provision: The net Pick-(n) pool and carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the Pick-(n) contests, based upon the official order of finish. If there are multiple tickets selecting the first-place finisher in each of the Pick-(n) contest(s), a share that has been declared by the association and approved by the commission, of the net Pick-(n) shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick-(n) contests and the remaining share shall be added to the carryover. If there are no tickets selecting the first-place finisher in each of the Pick-(n) contests, then; the entire net Pick-(n) pool shall be added to the carryover. Associations may suspend previously approved unique winning ticket wagering with the prior approval of the commission. Any carryover shall be held until the suspended unique winning ticket wagering is reinstated. Where there is no correct selection of the first-place finisher in at least one (1) of the Pick-(n) contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the Pick-(n) pool under this subsection, associations shall clearly identify which definition under subsection (16)(b) of this section will be relied upon for determining the existence of a unique winning ticket.

(4) If there is a dead heat for first place in any of the Pick-(n) races involving contestants representing the same betting interest, the Pick-(n) pool shall be distributed as if no dead heat occurred.

(5) If there is a dead heat for first place in any of the Pick-(n) races involving contestants representing two (2) or more betting interests, the Pick-(n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(6) If a betting interest is scratched or is designated to run for purse money only from any leg of the Pick-(n), the association shall use the actual favorite, as evidenced by total amounts wagered in the Win pool at the host association, for the contest at the close of wagering on that contest, and shall be substituted for the betting interest that was scratched or designated to run for purse money only for all purposes, including pool calculations. If the Win pool total for two (2) or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(7) If for any reason more than half of the races comprising the Pick-(n) are cancelled or declared a "no contest", and there was no previous carryover amount, wagering on the Pick-(n) shall be cancelled and all wagers shall be refunded.

(8) If for any reason more than half of the races comprising the Pick-(n) are cancelled or declared a "no contest", and a previous carryover amount existed, the carryover amount shall be frozen and added to the next scheduled Pick-(n) event. Wagering on the Pick-(n) for the cancelled Pick-(n) wager races shall be cancelled and all wagers shall be refunded.

(9) If the condition of the turf course warrants a change of racing surface in any races of the Pick-(n), and the change has not been disclosed to the public prior to "off time" of the first race of the Pick-(n), the stewards shall declare the changed races an "all win" race for Pick-(n) wagering purposes only. An "all win" race shall assign the winner of that race to each Pick-(n) ticket holder as their selection for that race.

(10) The Pick-(n) carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the Pick-(n) carryover equals or exceeds the designated cap, the Pick-(n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the Pick-(n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Pick-(n) carryover, shall be distributed to those whose selection finished first in the greatest number of Pick-(n) contests for that performance.

(11) A written request for permission to distribute the Pick-(n) carryover on a specific performance may be submitted to the commission. The request shall be for a specified date no greater than one (1) year from the date the request is submitted and contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(12) If the Pick-(n) carryover is designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick-(n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick-(n) contests. The Pick-(n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection (11) of this section; ~~and~~

(b) Upon written approval from the commission when there is a change in the carryover cap, a change from one (1) type of Pick-(n) wagering to another, or when the Pick-(n) is discontinued; or

(c) On the closing performance of the meet or split meet.

(13) Notwithstanding subsections (10) and (12) of this section, if for any reason the Pick-(n) carryover must be held over to the corresponding Pick-(n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The Pick-(n) carryover plus accrued interest shall then be added to the net Pick-(n) pool of the following meet on a date and performance designated by the association and approved by the commission.

(14) With the written approval of the commission, the association may contribute to the Pick-(n) carryover a sum of money up to the amount of any designated cap.

(15) The association may suspend previously-approved Pick-(n) wagering with the prior approval of the commission. Any carryover shall be held until the suspended Pick-(n) wagering is reinstated. An association may request approval of a Pick-(n) wager or separate wagering pool for specific performances.

(16) As it relates to any distribution method under subsection (3)(g) of this section which contains a unique winning ticket provision:

(a) A written request for permission to distribute the Pick-(n) unique winning ticket carryover on a specific performance may be submitted to the commission. The request shall contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. If the Pick-(n) unique winning ticket net pool and any

applicable carryover is designated for distribution on a specified date and performance in which there is no unique winning ticket, the entire pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-(n) contests.

(b) Associations shall clearly identify which selection under subparagraphs 1 and 2 of this paragraph will be relied upon for determining the existence of a unique winning ticket:

1. There is one (1) and only one (1) winning ticket that correctly selected the first place finisher in each of the Pick-(n) contests, based upon the official order of finish, to be verified by the unique serial number assigned by the tote company that issued the winning ticket; or

2. The total amount wagered on one (1) and only one (1) winning combination selecting the first-place finisher in each of the Pick-(n) contests, based up on the official order of finish, is equal to the minimum allowable wager.

(17)(a) Each association shall disclose in its license application whether it intends to schedule Pick-(n) races and, if so, shall disclose:

1. The percentage of the pool to be retained for the winning wagers, and

2. The designated amount of any cap to be set on the pool to be retained for the winning wagers.

(b)[3-] Any changes to the Pick-(n) scheduling shall require prior approval from the commission or its designee.

(18) An association may request permission from the commission to distribute the Pick-(n) carryover on a specific performance. The request shall contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(19) Upon written approval of the commission, a sum of money up to the amount of any designated cap may be contributed to the Pick-(n) carryover by an association. The association may supply information to the general public regarding the winning dollars in the Pick-(n) pool. The information shall not be selectively distributed. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

Section 15. Twin Trifecta Pools.

(1) The Twin Trifecta shall require the selection of the first three (3) finishers, in their exact order, in each of two (2) designated races.

(a) Each winning ticket for the first Twin Trifecta race shall be exchanged for a free ticket on the second Twin Trifecta race in order to remain eligible for the second half Twin Trifecta pool.

(b) The winning tickets may only be exchanged at attended ticket windows prior to the second Twin Trifecta race.

(c) Winning first half Twin Trifecta wagers shall receive both an exchange and a monetary payout.

(d) Both of the designated Twin Trifecta races shall be included in only one (1) Twin Trifecta pool.

(2) After wagering closes for the first half of the Twin Trifecta, and the takeout has been deducted from the pool, the net pool shall then be divided into two (2) separate pools: the first half Twin Trifecta pool and the second half Twin Trifecta pool.

(3) In the first Twin Trifecta race only, winning wagers shall be determined using the following precedence based upon the official order of finish for the first Twin Trifecta race:

(a) As a single price pool to individuals whose combination finished in the correct sequence as the first three (3) betting interests, except if there are not any of those wagers, then;

(b) As a single price pool to individuals whose combination included, in correct sequence, the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a single price pool to individuals whose combination correctly selected the first-place betting interest only, except if there are not any of those wagers, then;

(d) The entire Twin Trifecta pool shall be refunded on Twin Trifecta wagers for that race and Twin Trifecta wagering on the second half shall be cancelled.

(4) Except as established in subsection (16) of this section, if no first half Twin Trifecta ticket selects the first three (3) finishers of that race in exact order:

(a) Exchange tickets for the second half Twin Trifecta pool shall not be distributed; and

(b) The second half Twin Trifecta pool shall be retained and added to any existing Twin Trifecta carryover pool.

(5)(a) Tickets from the first half of the Twin Trifecta that correctly select the first three (3) finishers shall be exchanged for tickets selecting the first three (3) finishers of the second half of the Twin Trifecta.

(b) The second half Twin Trifecta pool shall be distributed to individuals in the following precedence based upon the official order of finish for the second Twin Trifecta race:

1. As a single price pool, including any existing carryover monies, to individuals whose combination finished in correct sequence as the first three (3) betting interests except if there are not any of those wagers, then;

2. The entire second half Twin Trifecta pool for that race shall be added to any existing carryover monies and retained for the corresponding second half Twin Trifecta pool of the next consecutive performance.

(c) If a winning first half Twin Trifecta ticket is not presented for cashing and exchange prior to the second half Twin Trifecta race, the ticket holder may still collect the monetary value associated with the first half Twin Trifecta pool except the ticket holder shall forfeit all rights to any distribution of the second half Twin Trifecta pool.

(6) Mutuel entries and mutuel fields shall be prohibited in Twin Trifecta races.

(7) If a betting entry in the first half of the Twin Trifecta is scratched, Twin Trifecta wagers including the scratched betting interest shall be refunded.

(8)(a) If a betting interest in the second half of the Twin Trifecta is scratched, an immediate public announcement and immediate posting on the association's video monitors and website concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest.

(b) If tickets have not been exchanged prior to the close of betting for the second Twin Trifecta race, the ticket holder shall forfeit all rights to the second half Twin Trifecta pool.

(9) If, due to a late scratch, the number of betting interests in the second half of the Twin Trifecta is reduced to fewer than the minimum, all exchange tickets and outstanding first half winning tickets shall be entitled to the second half pool for that race, except they shall not be entitled to the Twin Trifecta carryover.

(10)(a) If there is a dead heat or multiple dead heats in either the first or second half of the Twin Trifecta, all Twin Trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be winning wagers.

(b) If the dead heat occurs in the first half of the Twin Trifecta, the payout shall be calculated as a profit split.

(c) If the dead heat occurs in the second half of the Twin Trifecta, the payout shall be calculated as a single price pool.

(11) If the first Twin Trifecta race is canceled or declared "no contest", the entire Twin Trifecta pool shall be refunded on Twin Trifecta wagers for that race and the second half shall be cancelled.

(12)(a) If the second half Twin Trifecta race is cancelled or declared "no contest", all exchange tickets and outstanding first half winning Twin Trifecta tickets shall be entitled to the net Twin Trifecta pool for that race as a single price pool, except they shall not be entitled to the Twin Trifecta carryover.

(b) If there are no outstanding first half winning Twin Trifecta tickets, the net Twin Trifecta pool shall be distributed as described in subsection (3) of this section.

(13)(a) The Twin Trifecta carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the Twin Trifecta carryover equals or exceeds the designated cap, the Twin Trifecta carryover shall be frozen until it is won or distributed under the provisions of this administrative regulation.

(b) After the Twin Trifecta carryover is frozen, 100 percent of the net Twin Trifecta pool for each individual race shall be distributed to winners of the first half of the twin Trifecta pool.

(14) A written request for permission to distribute the Twin Trifecta carryover on a specific performance may be submitted to the commission. The request shall contain:

(a) Justification for the distribution;

(b) An explanation of the benefit to be derived; and

(c) The intended date and performance for the distribution.

(15) If the Twin Trifecta carryover is designated for distribution on a specified date and performance, the following precedence shall be followed in determining winning tickets for the second half of the Twin Trifecta after completion of the first half of the Twin Trifecta:

(a) As a single price pool to individuals whose combination finished in correct sequence as the first three (3) betting interests, except if there are not any of those wagers, then;

(b) As a single price pool to individuals whose combination included, in correct sequence, the first two (2) betting interests, except if there are not any of those wagers, then;

(c) As a single price pool to individuals whose combination correctly selected the first-place betting interest only, except if there are not any of those wagers, then;

(d) As a single price pool to holders of valid exchange tickets, except if there are not any of those wagers, then;

(e) As a single price pool to holders of outstanding first half winning tickets.

(16) For a performance designated to distribute the Twin Trifecta carryover, exchange tickets shall be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first half of the twin Trifecta.

(a) If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-and second-place finishers.

(b) If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, exchange tickets shall be issued for combinations correctly selecting only the first-place finisher.

(c) If there are no wagers selecting the first-place finisher only in the first half of the Twin Trifecta, all first half tickets shall be winning tickets and shall be entitled to 100 percent of that performance's net Twin Trifecta pool, and any existing Twin Trifecta carryover.

(17) The Twin Trifecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection (14) of this section;

(b) Upon written approval from the commission if there is a change in the carryover cap or if the Twin Trifecta is discontinued; or

(c) On the closing performance of the meeting or split meeting.

(18) If, for any reason, the Twin Trifecta carryover shall be held over to the corresponding Twin Trifecta pool of a subsequent meeting, the carryover shall be deposited in an interest-bearing account approved by the commission. The Twin Trifecta carryover plus accrued interest shall then be added to the second half Twin Trifecta pool of the following meeting on a date and performance so approved by the commission.

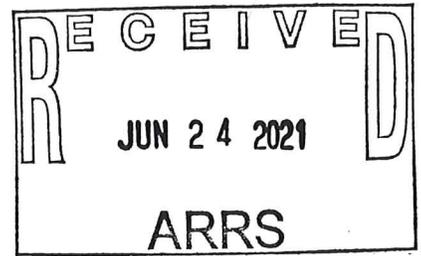
(19) Associations shall not provide information to any individual regarding covered combinations, the number of tickets sold, or the number of valid exchange tickets. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees from processing of pool data.

(20)(a) Each association shall disclose in its license application whether it intends to schedule Twin-Trifecta wagering and, if so, shall disclose:

1. The percentages of the net pool added to the first half pool and the second half pool; and
2. The amount of any cap to be set on the carryover.

(b) Any subsequent changes to the Twin Trifecta scheduling require prior approval from the commission or its designee.

CONTACT PERSON: Jennifer Wolsing, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email jennifer.wolsing@ky.gov.



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June 24, 2021

VIA ELECTRONIC MAIL

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: 810 KAR 2:001
810 KAR 3:001
810 KAR 4:001
810 KAR 5:001
810 KAR 6:001
810 KAR 6:010
810 KAR 6:030 ✓

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by the ordinary administrative regulations: 810 KAR 2:001, 810 KAR 3:001, 810 KAR 4:001, 810 KAR 5:001, 810 KAR 6:001, 810 KAR 6:010, and 810 KAR 6:030, the Kentucky Horse Racing Commission proposes the attached suggested substitutes to these ordinary administrative regulations.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Jennifer Wolsing
General Counsel

TEAM 
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SUGGESTED SUBSTITUTE *ORDINARY ONLY*

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 6:030. Pari-mutuel wagering.

RELATES TO: KRS 230.300, 230.361, 230.3615, 230.370, ~~230.380~~, 230.398, 230.750

STATUTORY AUTHORITY: KRS 230.210, 230.215, 230.361, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission [~~the "commission"~~] to regulate conditions under which horse racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating wagering on horse races under the pari-mutuel system of wagering. This administrative regulation establishes the requirements for the operation of pari-mutuel wagering under KRS Chapter 230 and KAR Title 810, Chapter 6.

Section 1. Pari-Mutuel System of Wagering Required.

(1) The only wagering permitted on live or historical horse races shall be under the pari-mutuel system of wagering. All systems of wagering other than pari-mutuel shall be prohibited. Any person participating or attempting to participate in prohibited wagering shall be ejected and excluded from association grounds.

(2) Wagering conducted in conformity with KRS Chapter 230 and KAR Title 810 is pari-mutuel.

Section 2. Totalizator or Other Approved Equipment Required.

(1) Pari-mutuel wagering on live and historical horse races shall only be conducted through the use of a totalizator or other similar mechanical equipment approved by the commission pursuant to KRS 230.361.

(2) The totalizator or other mechanical equipment shall be available for testing under the supervision of the commission upon request by the commission to ensure ~~its~~ proper working order.

Section 3. Wagering on Historical Horse Races Authorized.

(1) Wagering on historical horse races ~~is hereby authorized and~~ may be conducted and, if conducted, shall be in accordance with KRS Chapter 230 and KAR Title 810.

(2) Wagering on historical horse races shall only be conducted by:

- (a) An association licensed to conduct a live horse race meet; or
- (b) Two (2) or more associations licensed to conduct a live horse race meet:
 - 1. Who form a joint venture; or
 - 2. Pursuant to an agreement between them.

(3) Wagering on historical horse races shall only be permitted in a designated area on the licensed premises of an association licensed to conduct a live horse race meeting. Wagering on historical horse races shall not be offered in any other location.

(4) An association may conduct wagering on historical horse races of any horse breed regardless of the type of breed that primarily races in live meets conducted by the association. An association may conduct wagering on historical horse races on any days and hours approved by the commission, and shall not be limited to times during which the association is conducting a live horse race meeting.

(5) Any wager placed on a historical horse race or races ***shall be[is]*** an exotic wager.

(6) Before offering wagering on historical horse races, an association shall first obtain the commission's written approval of all wagers offered as ***established[set forth]*** in KAR Title 810.

(7) All wagering on historical horse races shall incorporate the ***[following]*** elements ***established in paragraphs (a) through (f) of this subsection.[;]***

(a) A patron may only wager on historical horse races on a terminal approved by the commission ***pursuant to this subsection and Section 5 of this administrative regulation.[;]***

(b) An association shall at all times maintain at least two (2) terminals offering each type of exotic wager on historical horse races.***[;]***

(c) Once a patron deposits an amount in the terminal offering wagering on historical horse races, one ***(1)*** or more historical horse races shall be made available for wagering.***[;]***

(d) Prior to the patron making his or her wager selections, the terminal shall not display any information that would allow the patron to identify the historical horse race or races on which he or she is wagering, including the location of the race or races, the date on which the race or races was run, the names of the horses in the race or races, or the names of the jockeys ***or drivers*** that rode the horses in the race or races.***[;]***

(e) The terminal shall make available true and accurate past performance information on the historical horse race to the patron prior to making his or her wager selections. The information shall be current as of the day the historical horse race was actually run. The information provided to the patron shall be displayed on the terminal in data or graphical form.***[; and]***

(f) After a patron finalizes his or her wager selections, the terminal shall display the patron's selections, the official results of each race, and a replay of the race or races, or a portion thereof, whether by digital or animated depiction or by way of a video recording. The identity of each race shall be revealed to the patron after the patron has placed his or her wager.

Section 4. Payouts through Pari-Mutuel Pools Authorized.

(1)(a) A wager on a historical horse race or races, less deductions permitted by KRS Chapter 230 or KAR Title 810, shall be placed in pari-mutuel pools approved by the commission ***based on promoting the best interests of racing.***

(b) A payout to a winning patron shall be paid from money wagered by patrons and shall not constitute a wager against the association.

(c) An association conducting wagering on historical horse races shall not conduct wagering in ***[such]*** a manner that ***results in*** patrons ***[are]*** wagering against the association, or in ***[such]*** a manner ***so*** that the amount retained by the association as a commission is dependent upon the outcome of any particular race or the success of any particular wager.

(2) An association offering wagering on historical horse races shall operate a pari-mutuel pool or pools in a manner and method approved by the commission. An association offering wagering on historical horse races may operate a player-funded pool or pools in a manner and method approved by the commission for the purpose of ensuring that sufficient funds are at all times available to pay any winning wagers in situations where a pari-mutuel pool becomes a "minus" pool as defined by 810 KAR 6:001. For each wager made, an association may assign a percentage of the wager to a player-funded pool or pools.

(3) If an association chooses to make a deposit into a trust account for the purpose of ensuring that sufficient funds are at all times available to pay any winning wagers in situations ***in which[where]*** a pari-mutuel pool becomes a minus pool, then ***that trust account shall[such trust account must]*** be approved by the commission.

Section 5. Location of Terminals Used for Wagering on Historical Horse Races.

(1) Terminals offering wagering on historical horse races shall be located within designated areas ***that[which]*** have the prior written approval of the commission. Designated areas shall be established ***so[in such a way]*** as to control access by the general public and prevent entry by any patron who is under eighteen (18) years of age or is otherwise not permitted to place wagers.

(2) Each association shall monitor persons entering and leaving the designated areas and shall prevent access to any patron who is under eighteen (18) years of age or is otherwise not permitted to place wagers on historical horse races.

(3) Each association shall provide terminals that are accessible to handicapped patrons.

Section 6. Records to be Maintained.

(1) Each association and each simulcast facility authorized under KRS 230.380 shall maintain complete records of all pari-mutuel wagering transactions on live and historical horse races, including the amounts wagered at each betting window, self-service totalizator, mobile pari-mutuel teller, and terminal.

(2) A copy of the wagering records shall be retained and safeguarded for a period of not less than two (2) years and shall not be destroyed ***after the two (2) year-period*** without the prior written permission of the commission.

Section 7. Equipment.

(1) The association and the totalizator provider shall install a primary and secondary device, which activate the stop betting function of the totalizator system. The chief state steward, presiding judge, or his or her designee, shall use the primary device to stop wagering at the start of a live horse race. If wagering is not stopped by the primary device at the start of the race, the totalizator operator shall stop wagering using the secondary device. The secondary device shall be installed in the totalizator room and shall only be used by the totalizator operator.

(2) If there is a complete breakdown of the totalizator or mechanical equipment during the wagering on a live horse race, the wagering on that race shall be declared closed. If the totalizator remains capable of computing payouts, the payouts for that race shall be computed based on the amounts wagered prior to the breakdown. If the totalizator is incapable of computing payouts, then refunds shall be issued for all amounts wagered on that race.

(3) If there is a complete breakdown of a terminal offering wagering on historical horse, the association offering the wager shall make a full refund of the patron's balance on the terminal at the time of the breakdown.

Section 8. Entries in a Live Horse Race.

(1) The chief state steward or presiding judge shall timely advise an association's pari-mutuel manager, prior to the beginning of wagering on each live horse race, of the horses that will compete in the race.

(2) If two (2) or more horses entered for the same live horse race are determined by the commission to have common ties through ownership or training, they may be joined by the commission as a mutuel entry. The mutuel entry shall become a single betting interest and a wager on one (1) horse in a mutuel entry shall be a wager on all horses in the same mutuel entry. If the number of horses competing in a live horse race exceeds the numbering capacity of the totalizator, the racing secretary shall assign the highest pari-mutuel numbers to horses so that the highest numbered horse within the numbering capacity of the totalizator, together with horses of higher numbers, shall be grouped in the mutuel field as a single betting interest, and a wager on one (1) horse in the mutuel field shall be a wager on all horses in the same mutuel field.

(3) A refund at cost value shall be made to all holders of a purchased ticket bearing the number of a horse in any race that has been scratched or withdrawn before the horse has become a starter, unless the horse is part of a mutuel entry, and one (1) or more of the entry starts.

Section 9. Sale of Pari-Mutuel Tickets on Live Horse Races.

(1) The following types of pari-mutuel wagering shall be permitted on a live horse race at all licensed associations and simulcast facilities:

(a) Normal win, place, and show wagers on each race;

(b) Any exotic wager previously approved by the commission **pursuant to 810 KAR 6:010**; and

(c) Any new exotic wager approved in writing by the commission pursuant to KAR Title 810.

(2) Pari-mutuel tickets on live horse races shall not be sold except by a licensed association or a simulcast facility authorized by KRS 230.380.

(3) Pari-mutuel tickets on a live horse race shall only be sold at regular ticket windows, self-service totalizator machines, by mobile pari-mutuel tellers with hand-held totalizator devices, or by any other method approved in writing by the commission prior to being offered to the public. At least one (1) regular ticket window shall be made accessible to handicapped patrons.

(4)(a) Pari-mutuel stored value cards or cash vouchers may be offered by an association. The dollar amount on the stored value card or cash voucher may be redeemed at any time at any regular ticket window, or used to fund additional wagers.

(b) Cash vouchers shall be valid for one (1) year after the date of issuance. Failure to present any cash voucher for redemption within one (1) year of issuance shall constitute a waiver of the right to receive payment on the voucher.

(5) A pari-mutuel wager shall not be made on a race after the totalizator has been locked for that race.

(6) Any claim by a patron that he or she has been issued a pari-mutuel ticket other than that ~~which was~~ requested shall be made before the patron has left the ticket window or before the mobile teller has initiated a transaction with another patron. A claim for an incorrect ticket shall not be honored after the totalizator has been locked.

Section 10. Payment on Pari-Mutuel Tickets on Live Horse Races.

(1) At the end of each live horse race, the placing judges shall advise the manager of the pari-mutuel department by the use of the totalizator equipment or by telephone of the official placement of the horses, and payouts shall not be made until the receipt of the notice.

(2) Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as declared "official" by the stewards or judges. A subsequent change in the order of finish or award of purse money that ~~could~~**may** result from a subsequent ruling by the stewards, judges, or commission shall not affect the pari-mutuel payout.

(3) Each association shall deduct from each pari-mutuel pool a commission, not exceeding the commission ~~established~~**provided** by KRS 230.3615 or KRS 230.750. The remainder of the pari-mutuel pool after the deduction of the commission shall be the net pool for distribution as payouts to ticket holders.

(4) Payment on valid pari-mutuel tickets shall be made only if presented and surrendered within one (1) year following the running of the live horse race on which the wager was made. Failure to present a ticket within one (1) year shall constitute a waiver of the right to receive payment on the ticket.

(5) The association shall be responsible for the correctness of all payout prices posted as "official." If an error is made in posting the payout figures, and ascertained before any tickets are cashed, the posting error shall be corrected, accompanied by a public address announcement, and only the correct amounts shall be used in the payout, irrespective of the initial error.

(6) A mutilated pari-mutuel ticket that is not easily identifiable as being a valid ticket shall not be accepted for payment.

(7) An association shall establish a written procedure for granting patrons an opportunity to file a claim on a lost pari-mutuel ticket and provide a copy to the commission.

(8) Prior to posting payouts, the association's pari-mutuel manager shall require the verification of the winning runners and prices prior to posting official results.

(9)(a) If an error is made in calculating the payout on a winning wager, resulting in overpayment, the association shall be responsible for the amount between the correct payout and the amount paid.

(b) If the error in calculation results in a payout being too low, the amount between the correct payout and the amount paid shall be added to the net pool of the same position in the following race on the same day or, if it is the last race of the day, then it shall be added to the net pool of the same position in the same race on the following day. If an error occurs in computing the daily double pool, the underpayment shall be added to the daily double pool of the following day.

(c) If an error occurs causing underpayment on the last race of the entire racing meeting, the amount of the underpayment shall be paid to the Kentucky Revenue Cabinet.

Section 11. Minimum Wagers and Payouts.

(1) The minimum wager to be accepted by any licensed association on a live horse race shall be ten (10) cents. The minimum payout on a one (1) dollar wager on a live horse race shall be one (1) dollars and ten (10) cents, unless a minus pool occurs. If a minus pool occurs, the minimum payout for a one (1) dollar wager shall be one (1) dollar and five (5) cents.

(2) The minimum wager to be accepted by an association on an exotic wager based on the outcome of a historical horse race or races shall be ten (10) cents. The minimum payout on any wager shall not be less than the amount wagered.

Section 12. Minors Prohibited from Wagering. A minor shall not be permitted by any licensed association or simulcast facility to purchase or cash a pari-mutuel ticket.

Section 13. Odds and payouts posted.

(1) Approximate odds for live horse races, based on win pool betting for finishing first for each betting interest, shall be posted on one (1) or more boards or television screens within view of the wagering public at intervals of not more than ninety (90) seconds.

(2) If daily double wagering is conducted on a live horse race, before off-time of the second daily double race, the probable payout for each two (2) dollar daily double wager combining the winner of the first daily double race with every horse or betting interest in the second daily double race shall be posted; except that if a dead heat for first in the first daily double race occurs, or a scheduled starter in the second daily double race is excused so as to cause a consolation daily double pool, then posting of all possible payouts shall not be mandatory, but the association shall make every effort to compute ***these[such]*** daily double prices and advise the public by posting or public address announcement as soon as possible and prior to the running of the second daily double race.

(3) For wagering on historical horse races, approximate odds or payouts for each pari-mutuel pool shall be posted or made available on each terminal for viewing by patrons.

Section 14. Betting Explanation.

(1) Each association shall publish in the daily race program, for each day of live horse racing, a general explanation of pari-mutuel wagering offered on live horse races and an explanation of each type of pari-mutuel pool offered. The explanation also shall be posted in conspicuous places about the association grounds to adequately inform the public and shall be submitted to the commission prior to publication for approval.

(2) Each association shall post, in conspicuous places in the designated area, a general explanation of pari-mutuel wagering offered on historical horse races and an explanation of each pari-mutuel pool offered. The explanation shall be submitted to the commission for approval prior to its posting.

Section 15. Prior Approval Required for Number of Live Horse Races. Each association desiring to conduct more than nine (9) live horse races on a single day shall first apply in writing to the commission and obtain specific approval, ***based on promoting the best interests of racing.*** of the number of live horse races to be offered on a single day.

Section 16. Pari-mutuel Pools Dependent upon Entries for Live Horse Races.

(1) If horses representing five (5) or fewer betting interests qualify to start in a live horse race, the association may prohibit show wagering on that race. If horses representing four (4) or fewer betting interests qualify to start in a live horse race, the association may prohibit both place and show wagering on that race.

(2) If a horse is scratched by the stewards or judges after wagering has commenced, or if a horse is prevented from running in a live horse race because of failure of a starting-gate door to open properly, and the number of actual starters representing different betting interests is:

(a) Reduced to five (5), the association may cancel show wagering on that race and the entire show pool shall be refunded upon presentation and surrender of show tickets; or

(b) Reduced to four (4) or fewer, the association may cancel both place and show wagering on that race and the entire place and show pool shall be refunded upon presentation and surrender of place and show tickets.

Section 17. Emergency Situation. If any emergency arises in connection with the operation of the pari-mutuel department not provided for by this administrative regulation, the pari-mutuel manager shall take immediate corrective action and shall by the quickest means possible notify the chief state steward or presiding judge and render a full report to the commission.

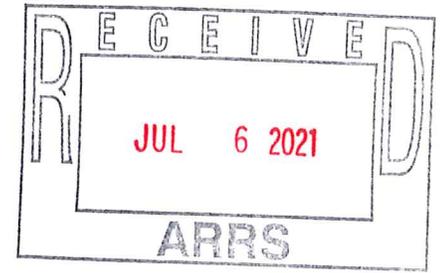
Section 18. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

CONTACT PERSON: Jennifer Wolsing, General Counsel, Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email jennifer.wolsing@ky.gov.



Andy Beshear
Governor

Cabinet for Health and Family Services
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Eric C. Friedlander
Secretary

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Executive Director

July 6, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **907 KAR 1:038**. Hearing Program coverage provisions and requirements.

Dear Regulations Compiler:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 1:038, the Department for Medicaid Services proposes the attached suggested substitute to 907 KAR 1:038.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Krista Quarles
Policy Analyst
Office of Legislative and Regulatory Affairs
Cabinet for Health and Family Services

SUGGESTED SUBSTITUTE

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Operations**

907 KAR 1:038. Hearing Program coverage provisions and requirements.

RELATES TO: KRS 205.520, 205.622, 205.8451(9), 334.010(4), (9), 334A.020(5), 334A.030, 42 C.F.R. 400.203, [441.30], [447.53], 457.310, 42 U.S.C. 1396a, b, d, 1396r-6

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid Program provisions and requirements regarding the coverage of audiology services and hearing instruments.

Section 1. Definitions. (1) "Audiologist" is defined by KRS 334A.020(5).

(2) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

(3) "Department" means the Department for Medicaid Services or its designee.

(4) "Enrollee" means a recipient who is enrolled with a managed care organization.

(5) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(6) "Healthcare Common Procedure Coding System" or "HCPCS" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or items.

(7) "Hearing instrument" is defined by KRS 334.010(4).

(8) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined by[in] 42 C.F.R. 438.2.

(9) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(10) "Recipient" is defined by KRS 205.8451(9).

(11) "Specialist in hearing instruments" is defined by KRS 334.010(9).

Section 2. General Requirements. (1)(a) For the department to reimburse for a service or item, the service or item shall:

1. Be provided:

a. To a recipient;

(i) Under the age of twenty-one (21) years, including the month in which the recipient becomes twenty-one (21); or

(ii) For evaluation and testing services, not limited by age, by an audiologist, only if the recipient has received a referral from a physician; and

b. By a provider who is:

(i) Enrolled in the Medicaid Program pursuant to 907 KAR 1:672;

(ii) Except as provided by paragraph (b) of this subsection, currently participating in the Medicaid Program pursuant to 907 KAR 1:671; and

(iii) Authorized to provide the service in accordance with this administrative regulation;

2. Be covered in accordance with this administrative regulation;
3. Be medically necessary; and
4. Have a CPT code or HCPCS code that is listed on the most current Department for Medicaid Services Hearing Program Fee Schedule, posted on the department website at: <https://chfs.ky.gov/agencies/dms/Pages/feesrates.aspx>. **Any fee schedule posted shall comply with all relevant existing rate methodologies utilized by the department and established by state and federal law. As appropriate and relevant, the department shall utilize the Medicaid Physician Fee Schedule established in 907 KAR 3:010 to inform and populate the Hearing Program Fee Schedule.**

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid Program.

(2)(a) If a procedure is part of a comprehensive service, the department shall:

1. Not reimburse separately for the procedure; and
2. Reimburse one (1) payment representing reimbursement for the entire comprehensive service.

(b) A provider shall not bill the department multiple procedures or procedural codes if one (1) CPT code or HCPCS code is available to appropriately identify the comprehensive service provided.

(3) A provider shall comply with:

- (a) 907 KAR 1:671;
- (b) 907 KAR 1:672; and
- (c) All applicable state and federal laws.

(4)(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and
2. Prosecuted in accordance with applicable federal or state law.

(c) Nonduplication of payments and third-party liability shall be in accordance with 907 KAR 1:005.

(d) A provider shall comply with KRS 205.622.

(5)(a) An in-state audiologist shall:

1. Maintain a current, unrevoked, and unsuspended license in accordance with KRS Chapter 334A;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1₂ of this paragraph to the department; and

3. Annually submit proof of the license referenced in subparagraph 1₂ of this paragraph to the department.

(b) An out-of-state audiologist shall:

1. Maintain a current, unrevoked, and unsuspended license to practice audiology in the state in which the audiologist is licensed;

2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1₂ of this paragraph to the department;

3. Annually submit proof of the license referenced in subparagraph 1₂ of this paragraph to the department;

4. Maintain a Certificate of Clinical Competence issued to the audiologist by the American Speech-Language-Hearing Association; and

5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the audiologist by the American Speech-Language-Hearing

Association.

(c) If an audiologist fails to comply with paragraph (a) or (b) of this subsection, as applicable based on if the audiologist is in-state or out-of-state, the:

1. Audiologist shall be ineligible to be a Kentucky Medicaid Program provider; and
2. Department shall not reimburse for any service or item provided by the audiologist effective with the date the audiologist fails or failed to comply.

(6)(a) An in-state specialist in hearing instruments shall:

1. Maintain a current, unrevoked, and unsuspended license issued by the Kentucky Licensing Board for Specialists in Hearing Instruments;
2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1. of this paragraph to the department;
3. Annually submit proof of the license referenced in subparagraph 1. of this paragraph to the department;
4. Maintain a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association; and
5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association.

(b) An out-of-state specialist in hearing instruments shall:

1. Maintain a current, unrevoked, and unsuspended license issued by the licensing board with jurisdiction over specialists in hearing instruments in the state in which the license is held;
2. Before initially enrolling in the Kentucky Medicaid Program, submit proof of the license referenced in subparagraph 1. of this paragraph to the department;
3. Annually submit proof of the license referenced in subparagraph 1. of this paragraph to the department;
4. Maintain a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association; and
5. Before enrolling in the Kentucky Medicaid Program, submit proof of having a Certificate of Clinical Competence issued to the specialist in hearing instruments by the American Speech-Language-Hearing Association.

(c) If a specialist in hearing instruments fails to comply with paragraph (a) or (b) of this subsection, as applicable based on if the specialist in hearing instruments is in-state or out-of-state, the:

1. Specialist in hearing instruments shall be ineligible to be a Kentucky Medicaid Program provider; and
2. Department shall not reimburse for any service or item provided by the specialist in hearing instruments effective with the date the specialist in hearing instruments fails or failed to comply.

Section 3. Audiology Services. (1) Audiology service coverage shall be limited to one (1) complete hearing evaluation per calendar year.

(2) Unless a recipient's health care provider demonstrates, and the department agrees, that an additional hearing instrument evaluation is medically necessary, a hearing instrument evaluation shall:

(a) Include three (3) follow-up visits, which shall be:

1. Within the six (6) month period immediately following the fitting of a hearing instrument; and
2. Related to the proper fit and adjustment of the hearing instrument; and

(b) Include one (1) additional follow-up visit, which shall be:

1. At least six (6) months following the fitting of the hearing instrument; and
2. Related to the proper fit and adjustment of the hearing instrument.

(3)(a) A referral by a physician to an audiologist shall be required for an audiology service.

(b) The department shall not cover an audiology service if a referral from a physician to the

audiologist was not made.

(c) An office visit with a physician shall not be required prior to the referral to the audiologist for the audiology service.

Section 4. Hearing Instrument Coverage. Hearing instrument benefit coverage shall:

- (1) If the benefit is a hearing instrument model, be for a hearing instrument model that is:
 - (a) Recommended by an audiologist licensed pursuant to KRS 334A.030; and
 - (b) Available through a Medicaid-participating specialist in hearing instruments; and
- (2) Except as provided by Section 5(3) of this administrative regulation, not exceed \$800 per ear every thirty-six (36) months.

Section 5. Replacement of a Hearing Instrument. (1) The department shall reimburse for the replacement of a hearing instrument if:

- (a) A loss of the hearing instrument necessitates replacement;
 - (b) Extensive damage has occurred necessitating replacement; or
 - (c) A medical condition necessitates the replacement of the previously prescribed hearing instrument in order to accommodate a change in hearing loss.
- (2) If replacement of a hearing instrument is necessary within twelve (12) months of the original fitting, the replacement hearing instrument shall be fitted upon the signed and dated recommendation from an audiologist.
- (3) If replacement of a hearing instrument becomes necessary beyond twelve (12) months from the original fitting:
- (a) The recipient shall be examined by a physician with a referral to an audiologist; and
 - (b) The recipient's hearing loss shall be re-evaluated by an audiologist.

Section 6. Noncovered services. The department shall not reimburse for:

- (1) A routine screening of an individual or group of individuals for identification of a hearing problem;
- (2) Hearing therapy except as covered through the six (6) month adjustment counseling following the fitting of a hearing instrument;
- (3) Lip reading instructions except as covered through the six (6) month adjustment counseling following the fitting of a hearing instrument;
- (4) A service for which the recipient has no obligation to pay and for which no other person has a legal obligation to provide or to make payment;
- (5) A telephone call;
- (6) A service associated with investigational research; or
- (7) A replacement of a hearing instrument for the purpose of incorporating a recent improvement or innovation unless the replacement results in appreciable improvement in the recipient's hearing ability as determined by an audiologist.

Section 7. Equipment. (1) Equipment used in the performance of a test shall meet the current standards and specifications established by the American National Standards Institute.

- (2)(a) A provider shall ensure that any audiometer used by the provider or provider's staff shall:
 1. Be checked at least once per year to ensure proper functioning; and
 2. Function properly.
- (b) A provider shall:
 1. Maintain proof of calibration and any repair, if any repair occurs; and
 2. Make the proof of calibration and repair, if any repair occurs, available for departmental review upon the department's request.

Section 8. Federal Approval and Federal Financial Participation. The department's coverage

of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

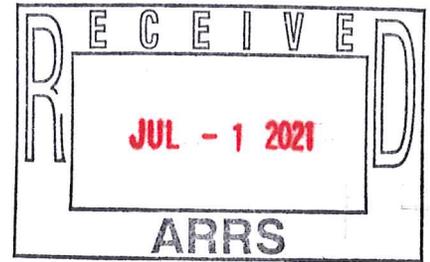
Section 9. Appeal Rights. An appeal of a negative action regarding a Medicaid recipient who is:

- (1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010;
- or
- (2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.[]

~~Section 10. Incorporation by Reference. (1) The "Department for Medicaid Services Hearing Program Fee Schedule", December 2013, is incorporated by reference.~~

~~—(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.]~~

CONTACT PERSON: Krista Quarles, Policy Advisor, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.



CABINET FOR HEALTH AND FAMILY SERVICES

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Eric C. Friedlander
Secretary

July 1, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 922 KAR 1:490[✓] suggested substitute and agency amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 1:490, the Department for Community Based Services proposes the attached LRC suggested substitute and agency amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Lucie Estill
Executive Staff Advisor
Office of Legislative and Regulatory Affairs

Enclosure

SUGGESTED SUBSTITUTE

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency**

922 KAR 1:490. Background checks for foster and adoptive parents and relative and fictive kin~~[, caretaker relatives, kinship]~~ caregivers~~[, fictive kin, and reporting requirements]~~.

RELATES TO: KRS 17.500-17.580, 27A.090, 194A.005(1), 199.011(6), (9), (14), 199.462(1), 211.684, 600.020(7), (28), (40), (61), (62), 605.090(1)(b), (6), 605.120, 605.130, 620.050(5), Chapter 625, 45 C.F.R. 1356.30, 42 U.S.C. 247d, 671(a)(20), 5106a, 5141

STATUTORY AUTHORITY: KRS 194A.050(1), 199.462(5) [~~199.462(4)~~], 199.640(5), 605.120(5), (6), 605.130(7)(~~4~~), 605.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law, qualify for the receipt of federal funds, and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.462(5) [~~199.462(4)~~] requires the cabinet to promulgate an administrative regulation for the purpose of requiring a criminal background investigation on behalf of a foster or adoptive parent applicant, an adult member of the applicant's household, or a [caretaker] relative or [~~and~~] fictive kin caregiver. KRS 605.150 authorizes the cabinet to promulgate administrative regulations to implement the provisions of [~~KRS Chapter 605, including: (1) KRS 605.120(5) and (6) by which the cabinet is authorized to establish a program for kinship care; and (2)~~] KRS 605.130(7)(~~4~~), by which the cabinet shall perform such other services as may be deemed necessary for the protection of children. KRS 199.640(5) authorizes the cabinet to promulgate administrative regulations establishing basic standards of care and service for child-placing agencies relating to the health and safety of all children in the care of the agency. This administrative regulation establishes background check requirements for relative and [caretaker relatives,] [kinship caregivers,] fictive kin caregivers, or applicants seeking to provide foster or adoptive services. Additionally, this administrative regulation imposes a stricter requirement than the federal mandate because the cabinet requires the denial of an applicant if: (1) a criminal record check conducted on behalf of an adult household member reveals physical abuse, battery, or a drug or alcohol-related felony within the previous five (5) year period or a felony involving a spouse, a child, sexual violence, or death; or (2) a child abuse or neglect check conducted by the cabinet reveals that a household member, twelve (12) years of age or older, committed sexual abuse or sexual exploitation of a child, has been responsible for a child fatality related to abuse or neglect, or has had parental rights terminated involuntarily.

Section 1. Definitions. (1) "Address check" means a search of the Sex Offender Registry to determine if an address is a known address of a registered sex offender.

(2) "Administrative review" means that the status of the individual subject to the child abuse and neglect check is pending the outcome of an:

- (a) Investigation or assessment in accordance with 922 KAR 1:330; or
 - (b) Appeal concerning a cabinet substantiated finding of child abuse or neglect.
- (3) "Adolescent member of the household" means a youth who:
- (a) Resides in the home of:

1. An individual who applies for approval or has been approved to provide foster or adoptive services; or

2. A ~~caretaker~~ relative or [,] fictive kin~~[-or kinship]~~ caregiver;

(b) Is age twelve (12) through age seventeen (17); and

(c) Is not placed in the home by a state agency.

(4) "Adult member of the household" means an adult who:

(a) Resides in the home of:

1. An individual who applies for approval or has been approved to provide foster or adoptive services; or

2. A ~~caretaker~~ relative or [,] fictive kin~~[-or kinship]~~ caregiver; and

(b) Is eighteen (18) years of age or older.

(5) "Applicant" means an individual who applies for approval as a foster or adoptive parent of a child in the custody of the state under:

(a) 922 KAR 1:350, Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers [Family Preparation]; or

(b) 922 KAR 1:310, Standards for child-placing agencies [Child-Placing Agencies].

(6) "Cabinet" is defined by KRS 194A.005(1) and 600.020(7).

~~(7) ["Caretaker relative" means a relative with whom the child is, or shall be, placed by the cabinet.~~

~~(8) [(7)] "Child fatality" is defined by KRS 211.684.~~

~~(8) [(9)] [(8)] "Child-placing agency" is defined by KRS 199.011(6).~~

~~(9) [(10)] [(9)] "Fictive kin" is defined by KRS 199.011(9) and 600.020(28).~~

~~(10) [(11)] "KARES system" means the cabinet's secure, web-based application used to access abuse and neglect registries and facilitate fingerprint-supported state and national criminal background checks for authorized users of the system.~~

~~(11) [(12)] "Kentucky National Background Check Program" or "NBCP" means a background screening program administered by the cabinet in accordance with 906 KAR 1:190.~~

~~(12) [(13)] [(10)] "Kinship caregiver" means the qualified caretaker relative of a child with whom the child is placed by the cabinet as an alternative to foster care in accordance with 922 KAR 1:130.~~

~~(11) "Near fatality" is defined by KRS 600.020(40) and 42 U.S.C. 5106a(b)(4)(A).~~

~~(13) [(14)] "Rap back system" is defined by KRS 199.011(14).~~

~~(14) "Relative caregiver" means a relative with whom the child is, or shall be, placed by the cabinet.~~

~~(15) [(12)] "Sex Offender Registry" means the registration system for adults who have committed sex crimes or crimes against minors established in accordance with KRS 17.500 through 17.580.~~

~~(16) [(13)] "Sexual abuse" is defined by KRS 600.020(61) [600.020(60)].~~

~~(17) [(14)] "Sexual exploitation" is defined by KRS 600.020(62) [600.020(61)].~~

Section 2. Background Checks Required for Foster or Adoptive Parent Applicants. (1) An applicant, and each adult member of the household, shall ~~[complete a DPP 157, Background Checks for Applicants or Foster/Adoptive Parents, and]~~ submit to a background check in accordance with Section 4 of this administrative regulation, which shall include:

(a) An in-state criminal records check, conducted pursuant to KRS 199.462(1), by the:

1. Kentucky Justice and Public Safety Cabinet; or

2. Administrative Office of the Courts;

(b) A child abuse or neglect check conducted by the cabinet for each state of residence during the past five (5) years;

(c) A criminal records check conducted by means of a fingerprint check of the Criminal History Record Information administered by the Federal Bureau of Investigation; and

- (d) An address check of the Sex Offender Registry.
- (2) Prior to approval of an applicant, each adolescent member of the household shall complete a DPP-157, Background Check Request for Foster or Adoptive Applicants and Adolescent or Adult Household Members, and submit to a child abuse or neglect check conducted by the cabinet.

Section 3. Background Checks for Foster or Adoptive Applicants Who Will Accept Placement of a Child Not in the Custody of the Cabinet. (1) An individual applying to accept placement of a child not in the custody of or otherwise made the legal responsibility of the cabinet or the Department of Juvenile Justice, pursuant to 922 KAR 1:310, shall be exempt from enrollment in KARES and subject to the requirements established in Section 8(3)(4) of this administrative regulation.

(2) An applicant pursuant to 922 KAR 1:310 and each adult and adolescent member of the household shall complete a separate DPP-157 and submit to:

- (a) An in-state criminal records check, conducted pursuant to KRS 199.462(1), by the:
 - 1. Kentucky Justice and Public Safety Cabinet; or
 - 2. Administrative Office of the Courts;
- (b) A child abuse or neglect check conducted by the cabinet pursuant to 922 KAR 1:470;
- (c) A criminal records check conducted by means of a fingerprint check of the Criminal History Record Information administered by the Federal Bureau of Investigation; and
- (d) An address check of the Sex Offender Registry.

(3) A Kentucky child abuse or neglect check conducted by the cabinet shall identify the name of each applicant, adolescent member of the household, or adult member of the household who has:

- (a) Been found by the cabinet to have:
 - 1. Committed sexual abuse or sexual exploitation of a child;
 - 2. Been responsible for a child fatality or near fatality related to abuse or neglect;
 - 3. Abused or neglected a child within the seven (7) year period immediately prior to the application; or
 - 4. Had parental rights terminated; or

(b) A matter pending administrative review.

(4) An applicant shall not be approved if:
(a) A criminal records check reveals that the applicant, or adult member of the household, has

- a:
 - 1. Felony conviction involving:
 - a. A spouse, a child, sexual violence, or death as described by 42 U.S.C. 671(a)(20); or
 - b. Physical abuse, battery, a drug, or alcohol within the five (5) year period prior to application;
 - 2. Criminal conviction relating to child abuse or neglect; or
 - 3. Civil judicial determination related to child abuse or neglect;

(b) A child abuse or neglect check reveals that the applicant, adolescent member of the household, or adult member of the household, has been found to have:

- 1. Committed sexual abuse or sexual exploitation of a child;
- 2. Been responsible for a child fatality or near fatality related to abuse or neglect; or
- 3. Had parental rights terminated involuntarily in accordance with KRS 625.050 through 625.120 or another state's laws; or

(c) An address check of the Sex Offender Registry and supporting documentation confirm that a sex offender resides at the applicant's home address.

(5) An individual identified in accordance with subsection (3) of this section may submit an open records request in accordance with 922 KAR 1:510.

Section 4. Fingerprint-Based Background Checks. (1) Fingerprint-based background checks shall be conducted for the following individuals through the Kentucky National Background Check Program pursuant to 906 KAR 1:190, using the KARES system:

(a) An applicant and each adult member of the household;

(b) A **[caretaker]** relative or fictive kin caregiver who has lived outside of the state of Kentucky within the last five (5) years; and

(c) An applicant who was approved under the waiver for fingerprint-based background checks during the declared national emergency caused by the COVID-19 pandemic, with only a name-based criminal background check.

(2) An individual meeting the criteria of subsection (1) of this section shall provide to the cabinet or child-placing agency:

(a) A copy of his or her driver's license or other government-issued photo identification for verification that the photograph and name clearly match the individual submitting to the check; and

(b) A completed and signed:

1. DPP-162, Applicant Waiver Agreement and Statement; and

2. DPP-163, Disclosures to be Provided to and Signed by the Applicant and Adult Household Members.

(3) Cabinet or child-placing agency staff shall log on to the NBCP portal and enter the individual's information for a check of the:

(a) Child abuse and neglect central registry pursuant to 922 KAR 1:470;

(b) National Crime Information Center's National Sex Offender Registry in accordance with 34 U.S.C. 20921; and

(c) Sex Offender Registry in accordance with KRS 17.500 through 17.580.

(4)(a) In accordance with KRS 199.462(2) and 42 U.S.C. 671(a)(20), the cabinet or child-placing agency shall submit payment via credit or debit card for a state and national fingerprint-supported criminal history background check performed by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI), including the rap back system. If an applicant's rap back has not expired, a new fingerprint check shall not be required.

(b) A child-placing agency enrolled in the NBCP shall pay a fee not to exceed twenty-five (25) dollars in addition to any fees charged in accordance with paragraph (a) of this subsection for the actual cost of processing a fingerprint-supported state and national criminal background check and for providing rap back services for each applicant.

(5)(a) Upon submission of payment in accordance with subsection (4) of this section, cabinet or child-placing agency staff shall print a copy of the DPP-164, Applicant Live Scan Fingerprinting Form, from the NBCP portal and provide the form to the applicant, **adult member of the household, or relative or fictive kin caregiver.**

(b) Cabinet or child-placing agency staff shall:

1. Have no more than ninety (90) calendar days from the date of payment pursuant to subsection (4) of this section to submit the applicant's fingerprints at an authorized collection site for NBCP; and

2. **Instruct the applicant or other individual to present **[Present]** the completed DPP-164 and copy of driver's license or other government-issued photo identification to the designated agent at an authorized collection site prior to fingerprint submission.**

(6) Upon completion of the background check required by this section or Section 6 of this administrative regulation, the cabinet shall provide notice to the **requesting agency** that the applicant or individual is:

(a) Approved; or

(b) Not approved due to a disqualifying background check result pursuant to subsection (7) of this section.

(7) An applicant or individual shall not be approved if the results of the background check indicate a:

(a) Felony conviction involving:

1. A spouse, a child, sexual violence, or death as established in 42 U.S.C. 671(a)(20); or
2. Physical abuse, battery, drugs, or alcohol within the five (5) year period prior to application;

(b) Criminal conviction relating to child abuse or neglect;

(c) Civil judicial determination related to child abuse or neglect;

(d) Result of a child abuse or neglect check in which the applicant, relative or fictive kin caregiver, adolescent member of the household, or adult member of the household, has been found to have:

1. Committed sexual abuse or sexual exploitation of a child;

2. Been responsible for a child fatality or near fatality related to abuse or neglect; or

3. Had parental rights terminated involuntarily pursuant to KRS 625.050 through 625.120 or another state's laws; or

(e) Result of an address check in the Sex Offender Registry and supporting documentation that a sex offender resides at the applicant's or individual's home address.

(8) An applicant or individual meeting the requirement of subsection (1) of this section may submit an open records request in accordance with 922 KAR 1:510[3. Procedure for Requesting a Cabinet Child Abuse or Neglect Check, a Criminal Record Check, and an Address Check of the Sex Offender Registry. Prior to approval of an applicant, a child placing agency shall request a child abuse or neglect check, a criminal records check, and an address check of the Sex Offender Registry by submitting to the cabinet:

(1) A completed form, DPP-157, including the fee for a criminal background check; and

(2) Documentation required to request a child abuse or neglect check from the child welfare agency in each previous state of residence, if the applicant or adult household member has resided outside of the state of Kentucky in the previous five (5) years.

(3) To the extent resources are available, the department shall post information about other states' child abuse and neglect checks on the department's Web site].

Section 5[4]. Request for a Child Abuse or Neglect Check from Another State. (1) The cabinet shall conduct a child abuse or neglect check as required by 42 U.S.C. 671(a)(20) if a:

(a) Completed DPP-157 or DPP-159, Background Check Request for Relative and [Caretaker Relatives,] Fictive Kin Caregivers, or Adolescent and Adult Household Members [Checks for Caretaker Relatives, Fictive Kin, or Kinship Caregivers], is submitted to the cabinet; or

(b) Request is received on agency letterhead and includes two (2) numeric identifiers.

(2) The cabinet shall:

(a) Protect the confidentiality of the information transmitted by the cabinet to a child welfare agency; and

(b) Waive the fee specified in 922 KAR 1:470.

Section 6[5]. Background Checks Required for a [Caretaker] Relative or [and] Fictive Kin Caregiver. (1) A [caretaker] relative or[-] fictive kin caregiver, and each adult member of the household, shall complete a DPP-159 and submit to:

(a) An in-state criminal records check, conducted pursuant to KRS 199.462(1) by the:

1. Kentucky Justice and Public Safety Cabinet; or

2. Administrative Office of the Courts;

(b) A child abuse or neglect check conducted by the cabinet;

(c) An address check of the Sex Offender Registry; and

(d) A fingerprint-based background check conducted through the NBCP, beginning July 1, 2021, [criminal records check conducted by means of a fingerprint check of the Criminal History

Record Information administered by the Federal Bureau of Investigation] if the **[caretaker]** relative **or** ~~;~~ fictive kin caregiver, or adult household member, has lived outside the state of Kentucky during the past five (5) years.

(2) An adolescent member of a **relative [caretaker relative's]** or fictive kin caregiver's ~~[kin's]~~ household shall complete a DPP-159 and submit to a child abuse or neglect check conducted by the cabinet.

(3) A child abuse **or** ~~[and]~~ neglect check conducted by the cabinet shall identify the name of each applicant and adolescent and adult member of the household and ~~[in accordance with subsection (1)(b) or (2) of this section shall]~~ include any finding consistent with Section ~~4(7) [2(3)]~~ of this administrative regulation.

(4) A **[caretaker]** relative or fictive kin caregiver shall not be approved if a criminal records check, a child abuse and neglect check, or an address check of the Sex Offender Registry reveals a finding consistent with Section ~~4(7) [2(4)]~~ of this administrative regulation.

(5) An individual meeting the requirement of subsection (1) of this section may submit an open records request in accordance with 922 KAR 1:510.

Section ~~7[6]~~. Approval. (1) Except for the provisions of Section ~~4(7) or 6(4) [2(4) or 5(4)]~~ of this administrative regulation, approval of an applicant, fictive kin, or **[caretaker]** relative caregiver who has been convicted of a nonviolent felony or misdemeanor, has been found by the cabinet or another child welfare agency to have abused or neglected a child, or whose parental rights have been terminated voluntarily, shall be handled on a case-by-case basis with consideration given to the:

- (a) Nature of the offense;
- (b) Length of time that has elapsed since the event; and
- (c) Applicant's life experiences during the ensuing period of time.

(2) Except for the provisions of Section ~~4(7) or 6(4) [2(4) or 5(4)]~~ of this administrative regulation, an applicant, fictive kin, or **[caretaker]** relative caregiver may be approved on a case-by-case basis in accordance with the criteria described by subsection (1)(a) through (c) of this section if:

- (a) An adolescent member of the household has:
 1. Been found by the cabinet to have abused or neglected a child; or
 2. Had parental rights terminated voluntarily in accordance with KRS 625.040 through 625.046 or another state's laws; or
- (b) An adult member of the household has:
 1. Been convicted of a nonviolent felony or misdemeanor;
 2. Been found to have abused or neglected a child; or
 3. Had parental rights terminated voluntarily in accordance with KRS 625.040 through 625.046 or another state's laws.

Section ~~8[7]~~. Reevaluation. (1) Once enrolled in KARES, an[An] approved foster or adoptive parent and each adult member of the household shall maintain enrollment in KARES, ~~except for individuals specified in Section 3 of this administrative regulation.~~

(2) [An applicant enrolled in KARES shall submit a criminal records check as required by Section 2(1)(a) of this administrative regulation during the month of their initial approval every three (3) years.]

(3) An approved foster or adoptive parent and each adult member of the household not already enrolled in KARES, with the exception of individuals specified in Section 3 of this administrative regulation, shall submit to a fingerprint-based background check required by Section 4 of this administrative regulation prior to or during the anniversary month of initial approval.

~~(3)~~~~(4)~~ An applicant specified in Section 3 of this administrative regulation and not enrolled in KARES shall submit annually, prior to or during the anniversary month of initial approval, to:

- (a) A criminal records check as described in Section 2(1)(a) of this administrative regulation;
- (b) A child abuse or neglect check conducted by the cabinet; and
- (c) An address check of the Sex Offender Registry.

~~(4)~~~~(5)~~~~(2)~~(a) If an adult becomes a new member of an approved foster or adoptive parent's household, the new adult member of the household shall submit to background checks within thirty (30) calendar days of residence within the household in accordance with Section 4 ~~2(4)(a)~~ through ~~(d)~~ of this administrative regulation.

(b) If an adult becomes a new member of a **caretaker** relative or fictive **kin caregiver's kin's** [kinship caregiver's] household, the new adult member of the household shall submit to background checks within thirty (30) calendar days of residence within the household in accordance with Section 6 ~~5(4)~~ of this administrative regulation.

~~(5)~~~~(6)~~~~(3)~~ If an adolescent becomes a new member of an approved foster or adoptive parent or a **caretaker** relative or fictive **kin caregiver's kin's** [kinship caregiver's] household, the new adolescent member of the household shall submit to a child abuse and neglect check conducted by the cabinet within thirty (30) calendar days of residence within the household in accordance with Section 2(2) or ~~6~~~~5~~(2) of this administrative regulation, respectively.

~~(4)~~ If the cabinet has custody of a child placed with a caretaker relative or fictive kin:

~~(a)~~ A new adult household member of a caretaker relative or fictive kin shall submit to background checks within thirty (30) calendar days of residence in the household in accordance with Section 5(1) of this administrative regulation; and

~~(b)~~ A new adolescent household member of a caretaker relative or fictive kin shall submit to a child abuse and neglect check conducted by the cabinet within thirty (30) calendar days of residence within the household in accordance with Section 5(2) of this administrative regulation.

~~(5)~~ An annual address check of the Sex Offender Registry shall be completed for a kinship caregiver's eligibility redetermination in accordance with 922 KAR 1:130, Section 13(2).

~~(6)~~ If an annual address check indicates a match with the Sex Offender Registry, a report of abuse, neglect, or dependency shall be made in accordance with 922 KAR 1:330.]

Section 9[8]. Maintenance of Records. (1) A child-placing agency shall maintain the approval eligibility status of each foster and adoptive applicant who has submitted to a fingerprint-based criminal background check by reporting the status in the NBCP web-based system ~~[completed copy of each criminal records check conducted pursuant to Section 2 or 7 of this administrative regulation and the DPP 157 shall be maintained on behalf of each:~~

- ~~(a) Applicant;~~
- ~~(b) Foster or adoptive parent; and~~
- ~~(c) Adult member of an applicant or foster or adoptive parent's household].~~

(2) A completed copy of each DPP-157 submitted pursuant to Section 2(2), 3(2), or 5 ~~7(3)~~ of this administrative regulation shall be maintained by the child-placing agency ~~[on behalf of each adolescent member of:~~

- ~~(a) An applicant's household; or~~
- ~~(b) A foster or adoptive parent's household].~~

(3) A completed copy of each ~~[the]~~ DPP-159 submitted and criminal records check conducted pursuant to Section 5 or 6~~7~~ of this administrative regulation shall be maintained ~~[for each:~~

- ~~(a) Caretaker relative;~~
- ~~(b) Kinship caregiver;~~
- ~~(c) Fictive kin; and~~
- ~~(d) Adult member of a caretaker relative, fictive kin, or kinship caregiver's household.~~

(4) ~~A completed copy of the DPP 159 submitted pursuant to Section 5(2) or 7(3) of this administrative regulation shall be maintained on behalf of each adolescent household member of~~
a:

- (a) ~~Caretaker relative;~~
- (b) ~~Kinship caregiver; or~~
- (c) ~~Fictive kin.~~

Section 10[9]. Communications. This administrative regulation shall not limit the cabinet's ability to discuss the qualifications or fitness of an applicant or an existing foster or adoptive parent with a child-placing agency in accordance with:

- (1) KRS 620.050(5); or
- (2) The terms and conditions of:
 - (a) A release of information signed by the applicant or foster or adoptive parent; or
 - (b) The agreement between the cabinet and the child-placing agency.

Section 11[40]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) ~~"DPP-157, Background Check Request for Foster or Adoptive Applicants and Adolescent or Adult Household Members [Checks for Applicants or Foster/Adoptive Parents]", 06/21 [02/21] [4/18]; [and]~~

(b) ~~"DPP-159, Background Check Request for Relative and [Caretaker Relatives,] Fictive Kin Caregivers, or Adolescent and Adult Household Members [Checks for Caretaker Relatives, Fictive Kin, or Kinship Caregivers Kinship Caregivers]", 06/21 [02/21];~~

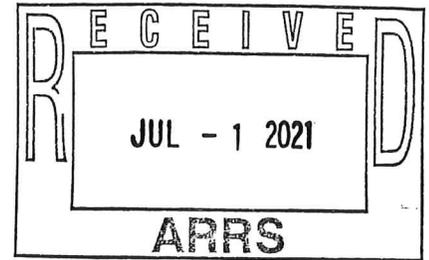
(c) ~~"DPP-162, Applicant Waiver Agreement and Statement", 06/21 [02/21];~~

(d) ~~"DPP-163, Disclosures to **be [Be]** Provided to and Signed by the Applicant and Adult Household Members", 06/21 [02/21]; and~~

(e) ~~"DPP-164, Applicant Live Scan Fingerprinting Form", 06/21 [02/21] [4/18].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dcbp/Pages/default.aspx>.

CONTACT PERSON: Krista Quarles, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.



CABINET FOR HEALTH AND FAMILY SERVICES

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Secretary

July 1, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 922 KAR 1:490[✓] suggested substitute and agency amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 1:490, the Department for Community Based Services proposes the attached LRC suggested substitute and agency amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Lucie Estill
Executive Staff Advisor
Office of Legislative and Regulatory Affairs

Enclosure

Agency Amendment

Cabinet for Health and Family Services Department for Community Based Services Division of Protection and Permanency

922 KAR 1:490. Background checks for foster and adoptive parents and relative and fictive kin caregivers.

Page 18

Section 11(1)(a)

Line 1

After "Household Members", insert "07/21".

Delete "06/21".

Page 18

Section 11(1)(c)

Line 6

After "Statement", insert "07/21".

Delete "06/21".

Incorporated material

DPP-157

Page 1, checkboxes

After "Out of State Request", delete "Received".

DPP-162

Page 1, first paragraph

After "adoptive parent", insert "adult household member".

After "caretaker", insert "relative".

Delete "relatives".

DPP-162

Page 1, check boxes

Insert "Adult Household Member" and corresponding check box.

Please update the revision date of the DPP-157 and DPP-162 to "07/21".

**COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services**

<input type="checkbox"/>	Adolescent Check
<input type="checkbox"/>	Out of State Check
<input type="checkbox"/>	Initial w/fingerprints
<input type="checkbox"/>	Initial w/o/fingerprints
<input type="checkbox"/>	Reevaluation

**BACKGROUND CHECK REQUEST FOR FOSTER OR ADOPTIVE APPLICANTS
AND ADOLESCENT OR ADULT HOUSEHOLD MEMBERS**

922 KAR 1:490 requires each applicant or foster or adoptive parent, and each adult household member not enrolled in KARES, to submit to a child abuse or neglect check, criminal records check, and sex offender registry check. 922 KAR 1:490 requires that adolescent members of households (age 12 through 17) submit to a child abuse or neglect check. Checks shall be completed prior to initial approval and annually thereafter. Please indicate if the check is initial or annual in the box above and check the appropriate category below.

- Adolescent Household member of DCBS Foster/Adoptive Parent or Applicant
- Child placing agency – Foster/Adoptive Parent or Applicant (Not required to be enrolled in KARES)
- Child placing agency – Adolescent Household Member of Foster/Adoptive Parent or Applicant
- Out of State request
- Out of State Request for Non-Kentucky Resident (Adam Walsh Check)

Personal information regarding the individual submitting a check.

Please list your addresses for the last five years. Use another sheet of paper, if necessary.

Name: _____
(first) (middle) (maiden/nickname) (last)

Sex: _____ Race: _____ Date of Birth: _____ Social Security Number: _____

Present Address: _____
(street address) (city) (state) (zip code)

Previous Address: _____
(street address) (city) (state) (zip code)

Previous Address: _____
(street address) (city) (state) (zip code)

Previous Address: _____
(street address) (city) (state) (zip code)

Use another sheet of paper, if necessary.



BACKGROUND CHECK FOR FOSTER OR ADOPTIVE APPLICANTS AND HOUSEHOLD MEMBERS

Initial application requirements:

I hereby authorize the Cabinet for Health and Family Services to complete a check of the Kentucky Central Registry (child abuse or neglect), Criminal Records Check, and an address check of the Sexual Offender Registry and provide the results to the agency listed below. I further authorize the Cabinet for Health and Family Services to complete a fingerprint Criminal Records Check (adults only). Fingerprints submitted will be used to check the criminal history records of the Federal Bureau of Investigation (FBI). I understand I have the right to inspect my criminal history record and to request correction of any inaccurate information. If I do not exercise that right, I agree to hold harmless the Kentucky State Police and its employees from any claim for damages arising from the dissemination of inaccurate information. I also release the Cabinet for Health and Family Services, its officers, agents, and employees, from any liability or damages resulting from the release of this information.

Procedures for obtaining a copy of an FBI criminal history record are set forth at 28 C.F.R. 16.30-16.33 or go to the FBI website at <http://www.fbi.gov/about-us/cjis/background-checks>. Procedures for obtaining a change, correction, or updating of FBI criminal history records are set forth at 28 C.F.R. 16.34.

Annual application requirements:

I hereby authorize the Cabinet for Health and Family Services to complete a check of the Kentucky Central Registry (child abuse or neglect), Criminal Records Check, and an address check of the Sexual Offender Registry and provide the results to the agency listed below. I understand I have the right to inspect my record and to request correction of any inaccurate information. I also release the Cabinet for Health and Family Services, its officers, agents, and employees, from any liability or damages resulting from the release of this information.

The information provided is complete and true to the best of my knowledge. I understand if I give false information or do not report all of the information needed, I may be subject to prosecution for fraud.

Signature of the individual (or parent/guardian of household member age 12-17) requesting the check (date)*

Signature of witness (date)

FOR COMPLETION BY THE CHILD PLACING AGENCY or CABINET STAFF

Name of child placing agency or DCBS office: _____

Name and title of representative: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

Email Address to Receive Encrypted Results: _____

Signature: _____
(representative requesting information) (date)

Send the completed form to: **Email: CHFSDCBS.RMS@ky.gov**
Cabinet for Health and Family Services
Department for Community Based Services
Records Management Section
275 E. Main St., 3E-G
Frankfort, KY 40621

* Authorization provided by applicant signature expires in 60 days

Kentucky National Background Check Program (NBCP)
Department for Community Based Services
Division of Protection and Permanency

APPLICANT WAIVER AGREEMENT AND STATEMENT

Pursuant to 922 KAR 1:490, Background checks for foster and adoptive parents and relative and fictive kin caregivers, this form shall be completed and signed by every prospective or current foster and adoptive parent, adult household member, respite provider, caretaker relative, and fictive kin for whom fingerprint-based criminal history records are requested by a qualified entity.

I, the undersigned applicant, hereby authorize _____ (hereinafter "qualified entity") to request submission of a set of my fingerprints to the Kentucky State Police (KSP) and Federal Bureau of Investigation (FBI) for the purpose of accessing and reviewing state and national criminal history records that may pertain to me. By signing this Waiver Agreement and Statement, it is my intent to authorize the dissemination of any Kentucky and national criminal history record that may pertain to me to the Department for Community Based Services (hereinafter "DCBS") for the purpose of determining whether I am eligible for approval as a foster or adoptive parent, relative or fictive kin caregiver, respite provider, or household member under 922 KAR 1:490. I further authorize the DCBS to release any record of State criminal history found in the files of the Kentucky centralized criminal history record information system to the above-named qualified entity. I understand that the KSP cannot disseminate any national criminal history record from the FBI to the above-named qualified entity pursuant to 28 C.F.R. 50.12.

I further understand that, until the criminal history background check is completed, the qualified entity cannot approve me provisionally and may deny me unsupervised access to children. I understand that upon written request to the DCBS, I will be provided with a copy, if any, of a KSP or FBI criminal history report received on me. I understand that the DCBS will only provide my criminal history report by certified mail, restricted delivery service. To receive my criminal history report from the local post office, I understand that I must show proof of identity and provide my signature. I also understand that I am entitled to challenge the accuracy and completeness of any information contained in any such report with the reporting entity.

Yes, I have been convicted of, pled guilty to, entered an Alford plea or a plea of nolo contendere to, or am under indictment for, a crime. **If yes, please describe the crime(s) and the particulars below. If extra space is needed please attach additional sheet of paper.** _____

No, I have not been convicted of, pled guilty to, entered an Alford plea or a plea of nolo contendere to, and am not under indictment for, a crime.

I am a current or prospective (check one): **Foster or Adoptive Applicant** **Respite Provider**
 Relative or Fictive Kin **Adult Household Member**

Applicant Signature: _____ Date: _____

Applicant Printed Name: _____

Applicant Date of Birth: _____ Applicant Social Security Number: _____

Applicant Physical Address: _____

TO BE COMPLETED BY THE QUALIFIED ENTITY:

ENTITY NAME:	
ADDRESS:	
ENTITY ASSIGNED:	

KEEP FOR YOUR RECORDS

Applicant and Employee Rights under Kentucky's National Background Check Program

An applicant may: (1) challenge the accuracy and completeness of any information contained in his or her criminal history report, or (2) challenge the finding that he or she is the true subject on an abuse registry:

Challenge Requests

Pursuant to Kentucky's Criminal History Record Information User Agreement, Section 6.12, a copy of an applicant's KSP and/or FBI rap sheet may be provided to the applicant upon completion of the initial fitness determination. A written request for the rap sheet must be submitted to the DCBS at the following address:

Attn: National Background Check Program
Department of Community Based Services
Division of Protection and Permanency
275 East Main Street, 3E
Frankfort, Kentucky 40621

Upon receipt of the request, DCBS will send a copy of the applicant's rap sheet by certified mail, restricted delivery service. Applicants must show proof of identity and sign for the certified mail to obtain his or her rap sheet from the local post office.

Request to Challenge a KSP rap sheet: If an applicant believes that the information contained in his or her KSP rap sheet is incomplete or inaccurate, the applicant may contact the Kentucky State Police, Criminal Records Dissemination Section, at (502) 227-8700.

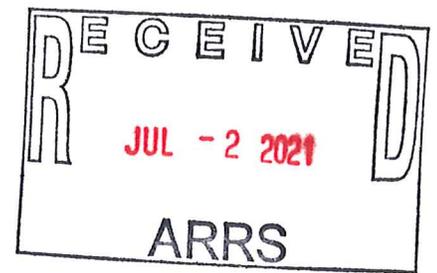
Request to Challenge an FBI rap sheet: In accordance with 28 C.F.R. 16.34, if an applicant believes that any information contained in his or her FBI rap sheet is incomplete or inaccurate, the applicant may direct his/her challenge regarding the accuracy or completeness of any entry on his/her record to:

FBI, Criminal Justice Information Services (CJIS) Division
ATTN: SCU, Mod. D-2
1000 Custer Hollow Road
Clarksburg, WV 26306

Abuse Registries: If an applicant believes that his or her name is listed on one of the abuse registries in error, the applicant may contact the agency responsible for the registry as follows:

- **Kentucky Child Abuse and Neglect Registry** - Contact the Kentucky CHFS Office of the Ombudsman and Administrative Review at (800) 372-2973 or (502) 564-5497
- **Sex Offender Registry** – Contact the Kentucky State Police, Criminal ID and Records Branch, 1266 Louisville Road, Frankfort, KY 40601, (502) 227-8700

Out-of-state abuse registry findings must be addressed with the out-of-state agency responsible for maintaining the abuse record.



CABINET FOR HEALTH AND FAMILY SERVICES

Andy Beshear
Governor

275 East Main Street, 5W-A
Frankfort, KY 40621
502-564-7042
502-564-7091
www.chfs.ky.gov

Eric C. Friedlander
Secretary

July 1, 2021

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **922 KAR 2:300** suggested amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 2:300, the Department for Community Based Services proposes the attached LRC suggested amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Lucie Estill
Executive Staff Advisor
Office of Legislative and Regulatory Affairs

Enclosure

**Suggested Amendment
Cabinet for Health and Family Services
Department for Community Based Services
Division of Child Care**

922 KAR 2:300. Emergency Child Care Approval.

Page 3

Section 4(1)

Line 15

After “(1) The”, insert the following:

child-care program shall obtain an inspection by the Kentucky State Fire Marshal of

Delete “Kentucky Fire Marshal shall review”.

Page 3

Section 4(2)

Line 18

After “respectively” insert comma.

Page 4

Section 5(6)(b)

Line 15

After “renewed”, insert “by”.

Delete “at the discretion of”.

Page 4

Section 6(1)

Line 18

After “operation, the cabinet”, insert “may”.

Delete “shall have the discretion to”.

Page 5

Section 6(2)(a)

Line 2

After “regulation”, insert period.

Delete “; and”.

Page 6

Section 7(1)(a)2.

Lines 8-9

After “center”, delete the following:

, unless directed otherwise by the cabinet

Page 7

Section 7(5)

Line 6

After “including”, insert the following:

an individual non-tiered crib that meets Consumer Product Safety Commission standards established in 16 C.F.R. 1219-1220

Delete the following:

a crib that is up to code

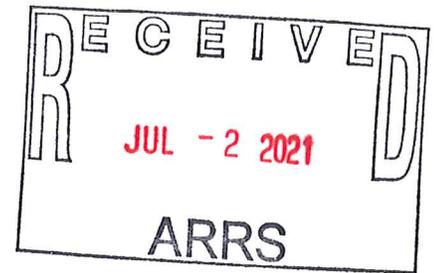
Page 7

Section 7(6)

Lines 9-10

After “this training”, insert “if”.

Delete “when”.



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c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: **922 KAR 5:020 suggested amendment** and agency amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 5:020, the Department for Community Based Services proposes the attached LRC suggested amendment and agency amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Lucie Estill
Executive Staff Advisor
Office of Legislative and Regulatory Affairs

Enclosure

Suggested Amendment
Cabinet for Health and Family Services
Department for Community Based Services
Division of Protection and Permanency

922 KAR 5:020. Batterer intervention provider certification standards.

Page 1

Necessity, Function, & Conformity

Lines 20-21

After “services for domestic”, insert the following:
violence offenders

Delete the following:
and dating violence and abuse batterers

Page 2

Necessity, Function, and Conformity

Line 1

After “standards for services, and”, delete “imposes”.

Page 7

Section 3(3)(a)

Line 3

After “imposed”, insert “for”.
Delete “to”.

Page 19

Section 8(2)(b)4.

Line 22

After “agent”, insert semicolon.
Delete the comma.



CABINET FOR HEALTH AND FAMILY SERVICES

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Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: **922 KAR 5:020** suggested amendment and **agency amendment**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 5:020, the Department for Community Based Services proposes the attached LRC suggested amendment and agency amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

A handwritten signature in cursive script that reads "Lucie Estill".

Lucie Estill
Executive Staff Advisor
Office of Legislative and Regulatory Affairs

Enclosure

Agency Amendment

Cabinet for Health and Family Services Department for Community Based Services Division of Protection and Permanency

922 KAR 5:020. Batterer intervention provider certification standards.

Section 15(1)

Page 35

Line 15

After "Certification", insert "07/2021".

Delete "04/21".

Incorporated material

DVPR-001

Page 1, Procedures for Certification

After "Services", insert "contracted agency listed below".

Delete the following:

, Division of Protection and Permanency, Batterer Intervention Program
Administrator

After "The", insert "contracted agency".

Delete "cabinet".

After "application", insert the following:

, including the required attachments specified on page 3.

After "Program", delete "Administrator".

Replace the cabinet's address with that of the contracted agency.

Page 2

Added Required Affirmation section.

Page 8

Bottom of form

After "Printed name of", insert "applicant".

Delete "supervisor".

Please update the revision date of the DVPR-001 to 07/2021.

Application for Batterer Intervention Provider Certification

Introduction and Purpose of the Program

KRS 403.7505 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to create a batterer intervention certification program for mental health professionals. The program is specifically designed to certify those professionals who provide court-ordered batterer intervention; it does not regulate services to victims except with respect to how collateral contacts with victims are to be made by batterer intervention providers. This program is also limited in scope to court-mandated services to domestic violence batterers.

The purpose of the program is to ensure victim safety through the provision of quality intervention services to domestic violence batterers. The program is also intended to provide for an organized referral resource for the Kentucky court system.

Qualifications of Certified Providers

The administrative regulation entitled "Batterer Intervention Provider Certification Standards" (922 KAR 5:020) establishes the requirements for certification as an autonomous provider who shall be a licensed or certified mental health professional; and certification as an associate provider who may only operate under the supervision of an autonomous provider. Certain credentials, clinical experience, baseline training, and continuing education are required.

Procedures for Certification

Mental health professionals interested in becoming certified batterer intervention providers for their local court system shall make written application to the Department for Community Based Services contracted agency listed below. Applicants must include documentation of education, experience, training, and, for associate providers, a signed supervision contract. The contracted agency shall respond to the applicant in writing no later than sixty (60) days after receiving a complete request for certification. Certification lasts for two (2) years.

You must complete this application, including the required attachments specified on page 3, and submit it to:

Batterer Intervention Provider Certification Program
111 Darby Shire Circle
Frankfort, Kentucky 40601
Email: smarx@kcadv.org

Required Affirmation

I agree to comply with all the requirements established in 922 KAR 5:020. I understand that if I violate any of those requirements, my certification as an associate or autonomous provider may be denied or revoked. I also understand that certification is granted for a two (2) year period and renewal of certification requires that I receive and be able to provide documentary evidence of twelve (12) hours of continuing education related to domestic violence during the period for renewal.

I certify that the information given in this application and attachments hereto is correct and complete to the best of my knowledge. I acknowledge and agree that falsification of information given in this application or an attachment hereto constitutes sufficient grounds for denial or revocation of certification. I hereby authorize the KCADV to inquire of any institution, agency, organization, or person it deems necessary to verify the contents of this application and attachments hereto. I hereby authorize any institution, agency, organization or person to disclose to the KCADV any information contained in this application.

I hereby certify that I have not been convicted of pled guilty to any offense listed in 922 KAR 5:020 Section 3(3)(a) within the past ten year period; I have not had a domestic violence protective order issued against me in the last five (5) years; I am not currently subject to a court order restraining or enjoining me from providing services pursuant to any professional license or certification I hold; and I do not presently have and have not had an alcohol or other drug abuse problem as defined in KRS 222.005 within the two years immediately prior to the date of this application.

Signature: _____ Date: _____

Application Checklist

Autonomous Applicants:

- Application for Certification as a BIP
- Required Affirmation as a BIP
- Documentation of Supervised Work Experience for Autonomous Providers
- Transcript of Master's Degree From an Accredited College or University
- Copy of Professional License(s)
- Letters of Recommendation From Two (2) Victim Advocates (one of whom must work for an agency separate from the applicant)
- Completion of BIP Certification Training (24 hours)
- Background Check Copy (current background check, if within one (1) year)
- An Outline of the Core Curriculum for Group Participation That Will be Used
- Biography of Provider

Associate Applicants:

- Application for Certification as a BIP
- Required Affirmation as a BIP
- Supervision Agreement (must be signed by the applicant and the supervisor)
- Transcript of Bachelor's Degree From an Accredited College or University
- Letters of Recommendation From Two (2) Victim Advocates (one of whom must work for an agency separate from the applicant)
- Completion of BIP Certification Training (24 hours)
- Current Resume/Curriculum Vitae or Other Documentation that Demonstrates Two (2) Years and 4,000 Hours of Relevant Work Experience
- Background Check Copy (current background check, if within one (1) year)
- Outline of the Core Curriculum for Group Participation That Will be Used
- Biography of Provider

Applicant Information

**NOTE: BIP certification follows person, not organization. Applicant personal information is for administrative purposes only*.*

First name: _____

Last name: _____

Title (LPCA, LCSW, LPC, etc.): _____

Home address: _____

City, state, zip code: _____

Email address: _____

Mobile phone number: _____

Is texting acceptable?

Yes

No

Application type:

Associate Provider

Autonomous Provider

*List college degree(s) and granting institution(s): _____

*List professional license(s) and certificate(s) held: _____

**An applicant must attach verifiable documentary evidence of the qualifications required by 922 KAR 5:020, Section 4 (diploma, certificate, licensure, etc.).*

Batterer Intervention Provider (BIP) Service Provision Information

**Please list address/contact information where services/groups will be provided. This information is what courts, referring agencies, and your clients will see.*

Practice/organization name: _____

Address: _____

City, state, zip code: _____

County: _____

Phone number: _____

Fax number: _____

Email address: _____

Website address: _____

Organizational Facebook page: _____

Organizational Contact Information

**if different than Service Provision Information*

Practice/organization name: _____

Address: _____

City, state, zip code: _____

County: _____

Phone number: _____

Fax number: _____

Email address: _____

Website address: _____

Organizational Facebook page: _____

Satellite Office Information

**Please list all locations and addresses where you will provide services. Use additional forms, if necessary.*

Practice/organization name: _____

Address: _____

City, state, zip code: _____

County: _____

Phone number: _____

Fax number: _____

Email address: _____

Website address: _____

Organizational Facebook page: _____

Satellite Office Information

**Please list all locations and addresses where you will provide services. Use additional forms, if necessary.*

Practice/organization name: _____

Address: _____

City, state, zip code: _____

County: _____

Phone number: _____

Fax number: _____

Email address: _____

Website address: _____

Organizational Facebook page: _____

Documentation of Supervised Work Experience for Autonomous Providers

This form is to be completed and signed by your work supervisor and is for applicants seeking autonomous function.*

I certify that _____ has completed _____ hours of clinical work providing domestic violence services.

This experience was divided approximately as follows:

_____ hours working with domestic violence offenders

_____ hours working with domestic violence victims

I further certify that I provided _____ hours of clinical supervision to the applicant. As a result of my supervision and experience with the applicant, I:

recommend him/her for certification

do not recommend him/her for certification

will not offer a recommendation

Printed name of supervisor: _____

Signature of supervisor: _____

Degree of supervisor (including license or certificate number): _____

Date of signature: _____

Address: _____

City/state/zip: _____

Telephone: _____

Email address: _____

****Make copies and submit separately if multiple supervisors.***

Clinical Supervision Agreement for Associate Providers

I am an autonomous batterer intervention provider and I agree to provide one hour per week of clinical supervision to _____.

This supervision will include case discussion, review of reading assignments, skill building, direct observation, or review of audio or video recording of assessment or intervention performed by the associate batterer intervention provider.

This supervision will continue until such time that the provider listed above achieves autonomous functioning, no longer works with batterers, or we agree for supervision to end.

After the associate provider completes two years (4,000 hours) of batterer intervention experience, I may recommend to the Coalition Against Domestic Violence that they be granted autonomous function.

Signature of supervisor: _____

Printed name of supervisor: _____

Date signed: _____

Address: _____

City/state/zip: _____

Telephone: _____

Email address: _____

Signature of applicant: _____

Printed name of applicant: _____

***Make copies of this form and submit separately if multiple supervisors**